

3
4 AN ORDINANCE providing for the creation of a
5 Fire Merit Commission; providing for the creation
6 of a Merit System governing the selection and
7 promotion of members of the Fire Department; ex-
8 empting certain positions from the provisions of
the Merit System; providing for appointment to
and dismissal from such exempt positions; and pro-
viding a system of discipline for members of the
Fire Department.

9
10 WHEREAS, the City deems it desirable to create a Fire
11 Merit Commission that would provide a Merit System governing
12 the selection and promotion of members of the Fire Department;

13 WHEREAS, the City feels it necessary to create such a
14 Fire Merit Commission to more effectively and equitably govern
members of the Fort Wayne Fire Department.

15 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
16 THE CITY OF FORT WAYNE, INDIANA:

17 SECTION 1. For the purposes of this Ordinance the
18 following shall mean:

19 SECTION 1 - DEFINITIONS.

20 The word "City" refers to the City of Fort Wayne,
21 Indiana;

22 The words "Common Council" refer to the Common Council
23 of the City;

24 The word "Clerk" refers to the City Clerk of the City;

25 The word "Board" refers to the Board of Public Safety
26 of the City;

27 The word "Department" refers to the Fire Department of
28 the City;

29 The words "Chief" and "Chief of the Department" refer to
30 the Chief of the Department;

31 The word "Commission" refers to the Fire Merit Commission
32 of the City;

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3 The word "Commissioner" refers to the members of the Com-
4 mission;

5 The words "merit rank" refer to the rank which a member
6 of the Department holds by appointment pursuant to the merit
7 system to be developed by the Commission;

8 The word "seniority" refers to a period of continuous
9 service beginning with the date a member was sworn into the
10 Department and continuing as long as the individual remains an
11 active member of the Department.

12 The words "according to seniority," "in the order of sen-
13 iority" and any similar terms mean, according to their content:

14 1. That under certain circumstances as hereinafter ex-
15 plained, members of the Department holding exempt positions of
16 equal rank may be demoted by the Mayor to positions falling
17 within the merit system; that, if there are insufficient vacan-
18 cies to demote all such members to the position contemplated
19 by this Ordinance, such demotions shall be made in such manner
20 that the member with the greatest seniority is demoted to the
21 highest ranking position in which there is a vacancy, the member
22 with the second greatest seniority is demoted to the second
23 such vacancy and so on until all demotions are effected; or

24 2. That as vacancies occur, members demoted under the
25 circumstances to which reference is made in Paragraph 1 immed-
26 iately above, shall be restored to the positions contemplated
27 by this Ordinance in the order of their seniority, the member
28 with the greatest seniority being the first restored to such a
29 position, the member with the second greatest seniority being
30 the next to be restored to such a position, and so on until all
31 such members have been restored to such a position; or

32 3. That in the event economic conditions require a re-
duction of the number of members of the Department on active

duty, the member with the least seniority shall be the first laid off, the member with the second least seniority shall be the second laid off and so on until a sufficient number of members have been laid off; or

4. That the recall of members from lay off, shall be made by recalling first the member with the greatest seniority, second the member with the second seniority, and so on until all members have been recalled; or

5. That in the event two or more members of the Department have the same seniority, seniority as between them shall be based upon their respective merit ranks, the greatest seniority being awarded the member with the highest rank and so on. In the event two or more members of the Department have the same seniority and are of the same merit rank, seniority as between them shall be based upon their respective length of service in said rank, the greatest seniority being awarded the member with the longest service in the rank and so on. In the event two or more members of the Department hold seniority from the same date, are of the same merit rank, and have held the same rank for the same length of time, seniority as between them, shall be based upon their respective scores in the tests which resulted in their appointment to the rank in question, the member with the highest score being awarded the greatest seniority and so on.

The singular shall include the plural, the plural shall include the singular, the disjunctive shall include the conjunctive and the conjunctive shall include the disjunctive.

SECTION 2 - CREATION AND DUTIES OF THE COMMISSION.

There is hereby created a commission of the City of Fort Wayne to be known as the Fort Wayne Fire Merit Commission. The Commission shall have the following duties:

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3 1. It shall promulgate and administer rules which
4 govern the selection of new members of the Department;

5 2. It shall promulgate and administer rules which
6 govern the selection of members of the Department for pro-
7 motion to all positions within the Department, except the po-
8 sition of Chief and which are described hereinafter;

9 SECTION 3 - SELECTION AND TENURE OF THE COMMISSION.

10 The Commission shall consist of five Commissioners ap-
11 pointed as follows:

12 1. Two persons, who must be of different political
13 parties, and who shall be appointed by the Mayor;

14 2. One person appointed by the Common Council;

15 3. Two persons who must be of different political par-
16 ties, and who shall be elected by the active members of the
17 Department.

18 Each Commissioner shall be a resident of the City of
19 Fort Wayne. A Commissioner shall be paid per diem compensation
20 for each day of actual service on behalf of the Commission,
21 the amount to be fixed by the Common Council upon the recom-
22 mendation of the Board.

23 A Commissioner shall be at least 21 years of age. A
24 Commissioner may not be an active member of the Department and
25 not more than one of the Commissioners may be a retired or
26 former member of the Department. A person may not serve on the
27 Commission if he/she receives any other remuneration or salary
28 from the City. Each Commissioner shall take an oath of office
29 to conscientiously discharge the duties of a Commissioner. A
30 signed copy of the oath shall be filed with the City Clerk and
31 with the Board.
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The term of office for a Commissioner is four years. However, one of the Mayor's initial selections and one of the initial selections of the active members of the Department shall serve terms of two years. The Mayor shall designate which of his selections shall serve a term of two years and the commissioner receiving the lower total vote of the two selected by the members of the Department shall serve a term of two years. Subsequent terms shall be for a period of four years.

A vacancy on the Commission shall be filled within 30 days by the same authority which selected the Commissioner who has ceased to be a member of the Commission. The individual so selected shall serve only for the remainder of the unexpired term of his/her predecessor.

Upon the expiration of a Commissioner's term, he/she shall continue to serve until such time as a successor is selected by the authority which selected the Commissioner whose term has expired. Such selection shall be made within thirty days of the expiration of the term. The Commissioner whose term has expired may be selected to succeed him/her self.

A Commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. Provided, however, in the case of a Commissioner elected by the Department, a recall petition signed by a minimum of two-thirds of the active members of the Department may be submitted to the Board. Upon receipt of such a petition, the Board shall immediately declare a vacancy on the Commission. Such vacancy shall be filled within sixty days by election of the active members of the Department. The person so elected shall serve only for the remainder of the unexpired term of his/her predecessor.

Whenever the active members of the Department elect a Commissioner, they shall do so at a meeting which shall be called specifically for that purpose by the Board. The Board shall give at least three weeks notice of the meeting to all active members of the Department by posting the notice in a prominent location in all duty stations of the Department. The notice shall also be read once during each shift roll call, at least three weeks prior to the notice of the meeting. The notice shall designate the time, place, and purpose of the meeting.

Only active members of the Department may attend the meeting. At the meeting, one of the members shall be selected as chairperson. All voting shall be by secret written ballot. Other procedures for holding the meeting may be determined by the Board and shall be posted in accordance with the rules to be adopted by the Board.

SECTION 4 - ADOPTION OF PROCEDURAL AND SUBSTANTIVE RULES BY THE COMMISSION.

Within thirty days after the selection of the first five members of the Commission, the Commission shall adopt proposed rules to govern its proceedings. Among other things, the rules shall establish the time and place of regular meetings, which meetings shall be held monthly, and the rules shall provide for the calling of such special meetings as the Commission may require.

All procedural and substantive rules of the Commission shall be subject to review by the Common Council which may recommend any changes or additions thereto.

Within five days after the adoption of proposed rules or any amendments thereto, the Commission shall place on file in the Office of the City Clerk of the City a copy of said proposed

rules or amendments thereto and said Clerk shall promptly furnish copies thereof to the Common Council for its consideration at a regular or committee session of said Common Council. The Common Council shall return said proposed rules or amendments thereto within thirty days after receipt thereof from the City Clerk of the City.

A majority of the Commission constitutes a quorum, and a quorum must be present for the Commission to transact business. Each year, at a time to be established by rule of the Commission, the Commissioners shall select from among their number, a president, vice president, and a secretary. The Commission shall keep a permanent record of its proceedings.

The Commission shall submit a proposed annual budget to the Controller at the same time and in the same manner as the proposed annual budgets of the departments of the City are submitted. The Common Council shall include in the City's budget an amount sufficient for the necessary expenses of the Commission.

Within 180 days after the Commission is selected, the Commission shall adopt rules governing the following:

1. The selection of new members of the Fort Wayne Fire Department;
2. The selection of members of the Department for promotion to all positions within the Department, except the position of Chief and any position above the rank of District Chief.

Before the rules required by this section are adopted by the Commission, the Commission shall hold a public hearing to consider the adoption of the proposed rules. At least 10 days before the public hearing, the Commission shall publish notice of the hearing in accordance with I.C. 5-3-1 et seq. The notice shall state the time and place of the hearing and state briefly

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3 the subject matter of the proposed rules. The notice shall set
4 forth the rules which the Commission shall adopt for the conduct
5 of the hearings.

6 At least ten days before the hearing, two copies of the
7 proposed rules shall be placed on file in the Office of the
8 City Clerk of the City one of which said copies shall be for
9 inspection by residents of the City and one of which copies
10 shall be for inspection by members of the Common Council and its
11 recommendation to the Commission. At least ten days before the hearing, three copies of the pro-
12 posed rules shall be forwarded to the Chief of the Department
13 and retained on file in the Office of the Chief for inspection
14 by members of the Department.

15 At the hearing, any registered voter or taxpayer of the
16 City, and any member of the Department shall be afforded the
17 opportunity to present both oral and written argument on the
18 matter relating to the adoption of the proposed rules, pro-
19 vided, however, that the Commission may adopt rules to limit
20 the amount of time which may be used by any one person to pre-
21 sent oral argument and prevent the presentations of repetitious
22 oral argument. Written arguments shall not be read to the Com-
23 mission at the hearing, but shall be considered by the Commis-
24 sion to the extent it deems appropriate after the hearing.

25 Except as such duties and responsibilities are speci-
26 fically vested by this Ordinance in the Commission, the Common
27 Council, the Board and the Department shall continue to perform
28 their respective duties and to exercise their respective respon-
29 sibilities for the governance of the Department as established
30 by law. This Ordinance shall not be interpreted as affecting
31 the authority of the Board and Department to promulgate work
32 rules, disciplinary rules, and other rules and regulations
governing the administration and operations of the Department.

SECTION 5 - APPOINTMENTS TO THE FIRE DEPARTMENT.

To be appointed to the Department, an applicant shall meet the following minimum requirements. He/She shall be:

1. A citizen of the United States;
2. A high school graduate or equivalent;
3. At least 21 years of age, but under 36 years of age;
4. In possession of sufficient mental and physical capacity to meet the demands of active service in the Department.
5. Meet the physical standards as set by the Board of Safety.
6. Able to successfully withstand a character check.

The Commission shall reject the application of any applicant who does not meet the above minimum requirements.

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3 The Commission shall adopt procedures for pre-admission
4 testing to be administered to applicants for membership in the
5 Department.

6 The pre-admission testing shall be conducted according to
7 the procedures to be adopted by the Commission.

8 As part of the pre-admission testing, the applicants
9 shall be rated on physical and mental capability. Applicants
10 must successfully complete a medical examination and meet
11 minimum medical standards as adopted by the Commission as set
12 by the Board of Safety. The Commission shall adopt rules for
13 grading the applicants achieving a passing score upon an eli-
14 gibility list and shall certify the list to the Board and to
15 the Chief of the Department.

16 If an applicant for an original appointment reaches his/
17 her 36th birthday before appointment, the applicant's name shall
18 remain on the list until such time as a new pre-admission test
19 is given or for a period not to exceed 18 months. When the Com-
20 mission announces the date for giving a new test, any persons
21 remaining on the existing eligibility list shall become in-
22 eligible, but such persons may apply to take the new test.

23 From time to time, as vacancies occur in the Department,
24 the Commission, upon written request of the Chief shall submit
25 a list of eligible applicants from which the Board and the
26 Chief shall choose for any appointment to the Training Academy
27 class. Upon the successful completion of the course at the Fire
28 Training Academy, an applicant may be appointed as a member of
29 the Department. The Chief shall certify to the Commission the
30 names of those who successfully completed such course and the
31 Board shall fill existing vacancies from among those whose
32 names are so submitted.

All appointments are probationary for a period of one year. At any time during the year, the Department may advise the Commission that the conduct or capacity of a probationary member is not satisfactory for appointment as a permanent member. The Board shall notify said member in writing that the member will not receive a permanent appointment, and the probationary member shall be discharged from the Department forthwith. Those probationary members who complete the probationary period shall be considered as regular members of the Department.

SECTION 6 - JOB ANALYSIS AND PERFORMANCE EVALUATION
CRITERIA.

The Commission shall prepare a detailed job analysis of all positions subject to this Ordinance. The Commission shall also adopt a procedure for the continuing evaluation of the performance of members of the Department holding such positions. The Commission shall establish guidelines for testing procedures that will provide for most qualified people to be placed in a pool for promotion.

SECTION 7 - PERFORMANCE RATING.

The Commission shall adopt rules for establishing a performance rating. The rules shall require that a performance rating be made at least once every six months for each member of the Department. Probationary members shall be rated monthly. The rating shall be made by the member's immediate superior. The rating shall be submitted to the Chief of the Department and shall be kept on file in his/her office under his/her supervision. A member who is dissatisfied with the performance rating given to him/her by the member's immediate superior may appeal to the Commission for a review of the rating. The appeal must be filed within ten days after acknowledgment of

the rating by the member's signature. The Commission shall either affirm or correct the rating.

SECTION 8 - SPECIALIST POSITION.

Positions of a highly technical, scientific, or professional character, or positions which are new or experimental in nature, may be classified as Specialist Positions. Such positions may be created by the Board and the Common Council as other new positions are created in the Department under the law existing at the time of creation of the positions.

Such positions may be filled as the positions are created or as vacancies occur in such positions. Such positions may be filled by members of the Department, or by those not previously members. Appointments to such positions shall be by the Board without regard to the provisions of this Ordinance. Such positions may not be created with regard to jobs having substantially the same duties and responsibilities as existing jobs subject to the provisions of this Ordinance. After new and experimental positions are established as permanent positions, they shall be made subject to the provisions of this Ordinance unless they are of a highly technical, scientific, or professional character.

SECTION 9 - PERMANENCE OF PRESENT POSITIONS.

With the exception of the position of the Chief, Deputy Chief, and Assistant Chief, all present officer's ratings in the Fort Wayne Fire Department shall be considered as permanent ratings. At the time the commission starts to administer procedures for promotion, the Chief shall submit a list of all members presently employed by the Department, indicating the ranks they hold. Said members shall retain such ranks until removed or demoted for cause, including member holding Fire Department rank that are temporarily transferred out of the Department and

serving in other departments of public safety, provided that the time elapsed since such transfers does not exceed five (5) years.

SECTION 10 - FILLING VACANCIES PRIOR TO IMPLEMENTATION.

Prior to the implementation of a system of promotions under this Ordinance, vacancies in officer positions shall be filled under the procedure presently in effect.

SECTION 11 - DEMOTIONS OF OFFICERS FROM CERTAIN RANKS.

A. A Demotion from ranks above District Chief.

If an active member of the Department above the rank of District Chief is demoted from his/her position, the member may not be placed in a lower rank than District Chief.

If, at the time of demotion, all positions of the rank of District Chief are filled, the demoted member shall draw salary at that rank, shall serve in the highest rank in which there is a vacancy below the rank of District Chief and shall be returned to that rank, or any intermediate rank when the first vacancy occurs.

If two or more members are demoted from ranks above District Chief at the same time, they shall be placed in vacancies in the ranks of District Chief and below in the order of their seniority. As vacancies occur in the rank of District Chief, they shall be filled first from among those members, if any, who have been demoted from ranks above District Chief and who are serving in ranks below said rank. Such vacancies shall be filled in the order of the demoted member's seniority.

Further, that in the event there are insufficient vacancies in the rank of District Chief to accomodate all such members demoted within six months of each other and holding the same rank, such members shall be placed according to their

seniority in rank from which they were demoted.

If two or more such demoted members have the same seniority in rank, then the member having the longest seniority on the Department shall receive first consideration, and further, that in the event such members have equal seniority in rank, the member being demoted from the higher rank shall receive first consideration for filling such vacancies.

B. Demotion of the Chief.

If the Fire Chief is removed from his/her position, he/she shall be placed in the position of District Chief, if a vacancy exists. If there is no such vacancy, he/she shall be appointed to the highest ranking position below the rank of District Chief in which there is a vacancy, shall be paid the salary of a District Chief, and shall be appointed to the first vacancy in the rank of District Chief or any intermediate rank even though there may be other members who have been demoted from ranks above District Chief and who have greater seniority. Such demoted Chief shall receive first consideration in filling any such vacancies over any other demoted member irrespective of any other section of this Ordinance.

SECTION 12 - PROMOTIONS.

A. Factors Considered.

Rules governing promotions shall provide that specific factors be considered in evaluating a member of the Department for a promotion. The Commission shall determine the weight to be given to each factor. However, neither a member's length of service nor the score received on a subjective oral interview may be weighed in excess of ten percent each.

Factors to be considered shall include the following and such other factors as the Commission may determine:

1. The performance record and personal evaluation of the member by superior officers.
2. The scores received on a written examination.
3. The score received by the member on an oral interview.
4. The score received from an assessment center evaluation, specifically related to the job being tested for.
5. The member's length of service. Percentages that can be gained by seniority are as follows:

No percentage shall accrue through the member's first five years of service;

One percent shall accrue to the member each year from the completion of the sixth year through the fifteenth year for a maximum of total seniority percentage benefit of ten percent.

Promotions to a rank must be from the next lower merit rank in which the member has served for a period of at least one year.

B. Eligibility List.

Only members who are qualified in rank and length of service may be given the competitive examination and placed on an eligibility list for promotion. The eligibility list for a position shall consist of members who have successfully met the qualifications as set forth by the Commission. The eligibility list shall be maintained until all members on the list have been promoted or for two years, whichever comes first. When the list is no longer maintained, it shall be destroyed and a new list established by the same process as the old one.

C. Written Examination.

A minimum of 180 days before a written examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The Commission may employ instructors, purchase materials, and

make other expenditures to provide information for applicants for promotion examinations.

The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The Commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

The examination papers shall be kept under the Commission's supervision. A member who is dissatisfied with the score received on the written examination may appeal to the Commission for review of the score. The appeal must be filed within ten days after notice of the score has been sent to him/her. He/She may review the questions scored as incorrectly answered and challenge said scoring. The Commission shall review said scoring and, based upon said review, either affirm the score or correct the score.

SECTION 13 - PROBATIONARY PROMOTIONS.

When a vacancy in a rank occurs, the Commission, upon written notification of the Board, shall certify to the Chief and the Board, those members who are on the eligibility list for that particular rank. The Board, upon the recommendation of the Chief and the Commission, shall promote one such member to fill the vacant position.

All promotions are probationary for a period of one year. At the end of said period, the Chief and the Board shall review the member's performance and advise the Commission either that:

1. The promotion be made permanent; or that
2. The promotion be revoked.

The Board shall act as advised by the Chief and the Commission either giving the member permanent rank in the position to which the promotion was made or returning the member to the position which the member occupied immediately prior to the probationary promotion.

The Commission shall prepare special performance ratings for those serving under probationary promotions. Such ratings shall be made at timely intervals to be determined by the Commission and by such active members of the Department as shall be determined by the Commission. The Chief shall review such reports and shall discuss any detrimental reports with the member.

If a member's probationary promotion is revoked, the member shall no longer be considered eligible to remain on the eligibility list from which the member received a probationary promotion. Any such member may attempt to requalify during the next regularly scheduled examination and shall be returned to his/her previously held merit rank.

SECTION 14 - LAY-OFF PROCEDURE.

If it is necessary for the Board to reduce the number of members of the Department for economic reasons, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the City, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse seniority, until the desired level is achieved.

If the Department is subsequently increased in number, either by a change in the economic needs basis or by normal,

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>EISBART</u>	_____	_____	_____	_____	_____
<u>GIAQUINTA</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____	_____
<u>SCHOMBURG</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 19____.

ATTEST:

(SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this _____ day of _____ 19____, at the hour of _____ o'clock _____ M., E.S.T.

WIN MOSES, JR. - MAYOR

Read the first time in full and on motion by GiaQuinta, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee Resolution (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on 7-28-81, 1981, at 7 o'clock PM, E.S.T.

DATE: 7-28-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Resolution, seconded by Resolution, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BURNS</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GiaQUINTA</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>NUCKOLS</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT, D.</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT, V.</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHOMBURG</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE:

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (GENERAL) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE (RESOLUTION) No. 9-14-81- on the day of , 1981.

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the day of , 1981, at the hour of o'clock M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this day of , 1981, at the hour of o'clock M., E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. G-81-07-38 (AS AMENDED)

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON Regulations TO WHOM WAS REFERRED AN
ORDINANCE providing for the creation of a Fire Merit Commission;
providing for the creation of Merit System governing the
selection and promotion of members of the Fire Department; exempting
certain positions from the provisions of the Merit System;
providing for appointment to and dismissal from such exempt
positions; and providing a system of discipline for members of
the Fire Department

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE PASS.

BEN A. EISBART - CHAIRMAN

JANET G. BRADBURY - VICE CHAIRMAN

PAUL M. BURNS

JOHN NUCKOLS

ROY J. SCHOMBURG

*Very happy
to hear of this
15*
*Held Aug 20. Thrus.
Committee Session -
for this Bill only
Special
26
27*

BILL NO. G-81-07-38 *(as amended)*

REPORT OF THE COMMITTEE ON REGULATIONS

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BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE PASS.

MARK E. GIAQUINTA, CHAIRMAN

SAMUEL J. TALARICO, VICE CHAIRMAN

VIVIAN G. SCHMIDT

JAMES S. STIER

DONALD J. SCHMIDT

Whenever the active members of the Department elect a Commissioner, they shall do so at a meeting which shall be called specifically for that purpose by the Board. The Board shall give at least three weeks notice of the meeting to all active members of the Department by posting the notice in a prominent location in all duty stations of the Department. The notice shall also be read once during each shift roll call, at least three weeks prior to the notice of the meeting. The notice shall designate the time, place, and purpose of the meeting.

Only active members of the Department may attend the meeting. At the meeting, one of the members shall be selected as chairperson. All voting shall be by secret written ballot. Other procedures for holding the meeting may be determined by the Board and shall be posted in accordance with the rules to be adopted by the Board.

SECTION 4 - ADOPTION OF PROCEDURAL AND SUBSTANTIVE RULES BY THE COMMISSION.

Within thirty days after the selection of the first five members of the Commission, the Commission shall adopt ^{proposed} rules to govern its proceedings. Among other things, the rules shall establish the time and place of regular meetings, which meetings shall be held monthly, and the rules shall provide for the calling of such special meetings as the Commission may require.

A majority of the Commission constitutes a quorum, and a quorum must be present for the Commission to transact business. Each year, at a time to be established by rule of the Commission, the Commissioners shall select from among their number, a president, vice president, and a secretary. The Commission shall keep a permanent record of its proceedings.

Page 6. Immediate filing
Line 25 1/2 - Paragraph

All procedural and substantive rules of the Commission shall be subject to review by the Common Council which may recommend any changes or additions thereto.

Within five days after the adoption of proposed rules or any amendments thereto of the Commission shall place on file in the Office of the City Clerk of the City a copy of said proposed rules or amendments thereto and said Clerk shall promptly furnish copies thereof to the Common Council ^{or committee} for its consideration at a regular session of said Common Council. The Common Council shall return said proposed rules or amendments thereto within thirty days after receipt thereof from the City Clerk of the City.

1
2
3 The Commission shall submit a proposed annual budget to
4 the Controller at the same time and in the same manner as the
5 proposed annual budgets of the departments of the City are
6 submitted. The Common Council shall include in the City's
7 budget an amount sufficient for the necessary expenses of the
8 Commission.

9 Within 180 days after the Commission is selected, the
10 Commission shall adopt rules governing the following:

11 1. The selection of new members of the Fort Wayne Fire
12 Department;

13 2. The selection of members of the Department for pro-
14 motion to all positions within the Department, except the posi-
15 tion of Chief and any position above the rank of District Chief.

16 Before the rules required by this section are adopted by
17 the Commission, the Commission shall hold a public hearing to
18 consider the adoption of the proposed rules. At least 10 days
19 before the public hearing, the Commission shall publish notice
20 of the hearing in accordance with I.C. ~~§~~5-3-1^{et seq.} The notice shall
21 state the time and place of the hearing and state briefly the
22 subject matter of the proposed rules. The notice shall set forth
23 the rules which the Commission shall adopt for the conduct of
24 the hearings.

25 At least 10 days before the hearing, one copy of the pro-
26 posed rules shall be placed on file in the Office of the City
27 Clerk of the City for inspection by residents of the City. ✓ At
28 least 10 days before the hearing, three copies of the proposed
29 rules shall be forwarded to the Chief of the Department and
30 retained on file in the Office of the Chief for inspection by
31 members of the Department.

32 At the hearing, any registered voter or taxpayer of the

~~Page 7 20~~

Page 7 20 correct this to read 5-3-1 et seq.

Amendment by Councilman Don Schmidt

~~By Line 24 to read - and one copy of the proposed rules shall~~

By Lines 25 through line 27 should be amended to read "~~two copies~~" ~~not after City and County~~

At least 10 days before the hearing, two copies of the proposed rules shall be placed on file in the Office of the City Clerk, the City of one ~~said~~ copies which shall be for inspection by residents of the City and one which shall be for inspection by members of the Common Council.

Page 8. j

seniority in rank from which they were demoted.

If two or more such demoted members have the same seniority in rank, then the member having the longest seniority on the Department shall receive first consideration, and further, that in the event such members have equal seniority in rank, the member being demoted from the higher rank shall receive first consideration for filling such vacancies.

B. Demotion of the Chief.

If the Fire Chief is removed from his/her position, he/she shall be placed in the position of District Chief, if a vacancy exists. If there is no such vacancy, he/she shall be appointed to the highest ranking position below the rank of District Chief in which there is a vacancy, shall be paid the salary of a District Chief, and shall be appointed to the first vacancy in the rank of District Chief or any intermediate rank even though there may be other members who have been demoted from ranks above District Chief and who have greater seniority. Such demoted Chief shall receive first consideration in filling any such vacancies over any other demoted member ^{irrespective} ~~irregardless~~ of any other section of this Ordinance.

SECTION 12 - PROMOTIONS.

A. Factors Considered.

Rules governing promotions shall provide that specific factors be considered in evaluating a member of the Department for a promotion. The Commission shall determine the weight to be given to each factor. However, neither a member's length of service nor the score received on a subjective oral interview may be weighed in excess of ten percent each.

Factors to be considered shall include the following and such other factors as the Commission may determine:

retirement procedures, the members of the Department who have been granted leaves of absence under this Section shall be reinstated before an applicant on the eligibility list is appointed to the Department. The reinstatements begin with the last member granted a leave.

SECTION 15 - MISCELLANEOUS.

The Commission shall be responsible for printing all rules of the Commission and for furnishing a copy to each member of the Department. Amendments to the rules take effect thirty days after their adoption if copies have been furnished to all members of the Department within that period. Otherwise, they do not take effect until copies are furnished to all members of the Department.

A Commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person shall be dismissed from the Commission and may be found to have committed a Class "D" felony.

SECTION 16 - COOPERATION BETWEEN AGENCIES.

The Commission, along with the Board, the Chief and any other such person or City agencies having jurisdiction regarding the hiring of and the employing of members of the Department shall cooperate on all matters relative to the implementation and ongoing management of this system. This shall include, ^{as pertinent matters} but not be limited to, matters concerning Equal Employment Opportunities, Affirmative Action and other stated policies or regulations concerning the fair and equitable employment of members of the Department.

SECTION 17 - APPEALS.

A member aggrieved by an action of the Commission may appeal to and in the same manner other appeals may be taken

from the disciplinary actions affecting members of the Fire Department of a City.

SECTION 18 - SEVERABILITY.

If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 2. That this Ordinance shall be effective upon passage and approval by the Mayor *and legal publication*
~~is legal for signing thereof.~~

COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY JULY 24, 1981.

BRUCE O. BOXBERGER, CITY ATTORNEY

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A Commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person shall be dismissed from the Commission and may be fined in an amount not in excess of One Thousand Dollars (\$1,000).

SECTION 16 - COOPERATION BETWEEN AGENCIES.

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SECTION 2. That this Ordinance shall be effective upon passage and approval by the Mayor and legal publication thereof.

COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY

BRUCE O. BOXBERGER, CITY ATTORNEY

1 BILL NO. G-81-07-28

2 GENERAL ORDINANCE NO. G-_____

3
4 AN ORDINANCE providing for the creation of a
5 Fire Merit Commission; providing for the creation
6 of a Merit System governing the selection and
7 promotion of members of the Fire Department; ex-
8 empting certain positions from the provisions of
the Merit System; providing for appointment to
and dismissal from such exempt positions; and pro-
viding a system of discipline for members of the
Fire Department.

9
10 WHEREAS, the City deems it desirable to create a Fire
11 Merit Commission that would provide a Merit System governing
12 the selection and promotion of members of the Fire Department;

13 WHEREAS, the City feels it necessary to create such a
14 Fire Merit Commission to more effectively and equitably govern
members of the Fort Wayne Fire Department.

15 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
16 THE CITY OF FORT WAYNE, INDIANA:

17 SECTION 1. For the purposes of this Ordinance the
18 following shall mean:

19 SECTION 1 - DEFINITIONS.

20 The word "City" refers to the City of Fort Wayne,
21 Indiana;

22 The words "Common Council" refer to the Common Council
23 of the City;

24 The word "Clerk" refers to the City Clerk of the City;

25 The word "Board" refers to the Board of Public Safety
26 of the City;

27 The word "Department" refers to the Fire Department of
28 the City;

29 The words "Chief" and "Chief of the Department" refer to
30 the Chief of the Department;

31 The word "Commission" refers to the Fire Merit Commission
32 of the City;

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3 The word "Commissioner" refers to the members of the Com-
4 mission;

5 The words "merit rank" refer to the rank which a member
6 of the Department holds by appointment pursuant to the merit
7 system to be developed by the Commission;

8 The word "seniority" refers to a period of continuous
9 service beginning with the date a member was sworn into the
10 Department and continuing as long as the individual remains an
11 active member of the Department.

12 The words "according to seniority," "in the order of sen-
13 iority" and any similar terms mean, according to their content:

14 1. That under certain circumstances as hereinafter ex-
15 plained, members of the Department holding exempt positions of
16 equal rank may be demoted by the Mayor to positions falling
17 within the merit system; that, if there are insufficient vacan-
18 cies to demote all such members to the position contemplated
19 by this Ordinance, such demotions shall be made in such manner
20 that the member with the greatest seniority is demoted to the
21 highest ranking position in which there is a vacancy, the member
22 with the second greatest seniority is demoted to the second
23 such vacancy and so on until all demotions are effected; or

24 2. That as vacancies occur, members demoted under the
25 circumstances to which reference is made in Paragraph 1 immed-
26 iately above, shall be restored to the positions contemplated
27 by this Ordinance in the order of their seniority, the member
28 with the greatest seniority being the first restored to such a
29 position, the member with the second greatest seniority being
30 the next to be restored to such a position, and so on until all
31 such members have been restored to such a position; or

32 3. That in the event economic conditions require a re-
duction of the number of members of the Department on active

duty, the member with the least seniority shall be the first laid off, the member with the second least seniority shall be the second laid off and so on until a sufficient number of members have been laid off; or

4. That the recall of members from lay off, shall be made by recalling first the member with the greatest seniority, second the member with the second seniority, and so on until all members have been recalled; or

5. That in the event two or more members of the Department have the same seniority, seniority as between them shall be based upon their respective merit ranks, the greatest seniority being awarded the member with the highest rank and so on. In the event two or more members of the Department have the same seniority and are of the same merit rank, seniority as between them shall be based upon their respective length of service in said rank, the greatest seniority being awarded the member with the longest service in the rank and so on. In the event two or more members of the Department hold seniority from the same date, are of the same merit rank, and have held the same rank for the same length of time, seniority as between them, shall be based upon their respective scores in the tests which resulted in their appointment to the rank in question, the member with the highest score being awarded the greatest seniority and so on.

The singular shall include the plural, the plural shall include the singular, the disjunctive shall include the conjunctive and the conjunctive shall include the disjunctive.

SECTION 2 - CREATION AND DUTIES OF THE COMMISSION.

There is hereby created a commission of the City of Fort Wayne to be known as the Fort Wayne Fire Merit Commission. The Commission shall have the following duties:

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3 1. It shall promulgate and administer rules which
4 govern the selection of new members of the Department;

5 2. It shall promulgate and administer rules which
6 govern the selection of members of the Department for pro-
7 motion to all positions within the Department, except the po-
8 sition of Chief and which are described hereinafter;

9 SECTION 3 - SELECTION AND TENURE OF THE COMMISSION.

10 The Commission shall consist of five Commissioners ap-
11 pointed as follows:

12 1. Two persons, who must be of different political
13 parties, and who shall be appointed by the Mayor;

14 2. One person appointed by the Common Council;

15 3. Two persons who must be of different political par-
16 ties, and who shall be elected by the active members of the
17 Department.

18 Each Commissioner shall be a resident of the City of
19 Fort Wayne. A Commissioner shall be paid per diem compensation
20 for each day of actual service on behalf of the Commission,
21 the amount to be fixed by the Common Council upon the recom-
22 mendation of the Board.

23 A Commissioner shall be at least 21 years of age. A
24 Commissioner may not be an active member of the Department and
25 not more than one of the Commissioners may be a retired or
26 former member of the Department. A person may not serve on the
27 Commission if he/she receives any other remuneration or salary
28 from the City. Each Commissioner shall take an oath of office
29 to conscientiously discharge the duties of a Commissioner. A
30 signed copy of the oath shall be filed with the City Clerk and
31 with the Board.
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The term of office for a Commissioner is four years. However, one of the Mayor's initial selections and one of the initial selections of the active members of the Department shall serve terms of two years. The Mayor shall designate which of his selections shall serve a term of two years and the commissioner receiving the lower total vote of the two selected by the members of the Department shall serve a term of two years. Subsequent terms shall be for a period of four years.

A vacancy on the Commission shall be filled within 30 days by the same authority which selected the Commissioner who has ceased to be a member of the Commission. The individual so selected shall serve only for the remainder of the unexpired term of his/her predecessor.

Upon the expiration of a Commissioner's term, he/she shall continue to serve until such time as a successor is selected by the authority which selected the Commissioner whose term has expired. Such selection shall be made within thirty days of the expiration of the term. The Commissioner whose term has expired may be selected to succeed him/her self.

A Commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. Provided, however, in the case of a Commissioner elected by the Department, a recall petition signed by a minimum of two-thirds of the active members of the Department may be submitted to the Board. Upon receipt of such a petition, the Board shall immediately declare a vacancy on the Commission. Such vacancy shall be filled within sixty days by election of the active members of the Department. The person so elected shall serve only for the remainder of the unexpired term of his/her predecessor.

Whenever the active members of the Department elect a Commissioner, they shall do so at a meeting which shall be called specifically for that purpose by the Board. The Board shall give at least three weeks notice of the meeting to all active members of the Department by posting the notice in a prominent location in all duty stations of the Department. The notice shall also be read once during each shift roll call, at least three weeks prior to the notice of the meeting. The notice shall designate the time, place, and purpose of the meeting.

Only active members of the Department may attend the meeting. At the meeting, one of the members shall be selected as chairperson. All voting shall be by secret written ballot. Other procedures for holding the meeting may be determined by the Board and shall be posted in accordance with the rules to be adopted by the Board.

SECTION 4 - ADOPTION OF PROCEDURAL AND SUBSTANTIVE RULES
BY THE COMMISSION.

Within thirty days after the selection of the first five members of the Commission, the Commission shall adopt rules to govern its proceedings. Among other things, the rules shall establish the time and place of regular meetings, which meetings shall be held monthly, and the rules shall provide for the calling of such special meetings as the Commission may require.

A majority of the Commission constitutes a quorum, and a quorum must be present for the Commission to transact business. Each year, at a time to be established by rule of the Commission, the Commissioners shall select from among their number, a president, vice president, and a secretary. The Commission shall keep a permanent record of its proceedings.

The Commission shall submit a proposed annual budget to the Controller at the same time and in the same manner as the proposed annual budgets of the departments of the City are submitted. The Common Council shall include in the City's budget an amount sufficient for the necessary expenses of the Commission.

Within 180 days after the Commission is selected, the Commission shall adopt rules governing the following:

1. The selection of new members of the Fort Wayne Fire Department;

2. The selection of members of the Department for promotion to all positions within the Department, except the position of Chief and any position above the rank of District Chief.

Before the rules required by this section are adopted by the Commission, the Commission shall hold a public hearing to consider the adoption of the proposed rules. At least 10 days before the public hearing, the Commission shall publish notice of the hearing in accordance with I.C. §5-3-1. The notice shall state the time and place of the hearing and state briefly the subject matter of the proposed rules. The notice shall set forth the rules which the Commission shall adopt for the conduct of the hearings.

At least 10 days before the hearing, one copy of the proposed rules shall be placed on file in the Office of the City Clerk of the City for inspection by residents of the City. At least 10 days before the hearing, three copies of the proposed rules shall be forwarded to the Chief of the Department and retained on file in the Office of the Chief for inspection by members of the Department.

At the hearing, any registered voter or taxpayer of the

City, and any member of the Department shall be afforded the opportunity to present both oral and written argument on the matter relating to the adoption of the proposed rules, provided, however, that the Commission may adopt rules to limit the amount of time which may be used by any one person to present oral argument and prevent the presentations of repetitious oral argument. Written arguments shall not be read to the Commission at the hearing, but shall be considered by the Commission to the extent it deems appropriate after the hearing.

Except as such duties and responsibilities are specifically vested by this Ordinance in the Commission, the Common Council, the Board and the Department shall continue to perform their respective duties and to exercise their respective responsibilities for the governance of the Department as established by law. This Ordinance shall not be interpreted as affecting the authority of the Board and Department to promulgate work rules, disciplinary rules, and other rules and regulations governing the administration and operations of the Department.

SECTION 5 - APPOINTMENTS TO THE FIRE DEPARTMENT.

To be appointed to the Department, an applicant shall meet the following minimum requirements. He/She shall be:

1. A citizen of the United States;
2. A high school graduate or equivalent;
3. At least 21 years of age, but under 36 years of age;
4. In possession of sufficient mental and physical capacity to meet the demands of active service in the Department.
5. Meet the physical standards as set by the Board of Safety.
6. Able to successfully withstand a character check.

The Commission shall reject the application of any applicant who does not meet the above minimum requirements.

The Commission shall adopt procedures for pre-admission testing to be administered to applicants for membership in the Department.

The pre-admission testing shall be conducted according to the procedures to be adopted by the Commission.

As part of the pre-admission testing, the applicants shall be rated on physical and mental capability. Applicants must successfully complete a medical examination and meet minimum medical standards as adopted by the Commission as set by the Board of Safety. The Commission shall adopt rules for grading the applicants achieving a passing score upon an eligibility list and shall certify the list to the Board and to the Chief of the Department.

If an applicant for an original appointment reaches his/her 36th birthday before appointment, the applicant's name shall remain on the list until such time as a new pre-admission test is given or for a period not to exceed 18 months. When the Commission announces the date for giving a new test, any persons remaining on the existing eligibility list shall become ineligible, but such persons may apply to take the new test.

From time to time, as vacancies occur in the Department, the Commission, upon written request of the Chief shall submit a list of eligible applicants from which the Board and the Chief shall choose for any appointment to the Training Academy class. Upon the successful completion of the course at the Fire Training Academy, an applicant may be appointed as a member of the Department. The Chief shall certify to the Commission the names of those who successfully completed such course and the Board shall fill existing vacancies from among those whose names are so submitted.

All appointments are probationary for a period of one year. At any time during the year, the Department may advise the Commission that the conduct or capacity of a probationary member is not satisfactory for appointment as a permanent member. The Board shall notify said member in writing that the member will not receive a permanent appointment, and the probationary member shall be discharged from the Department forthwith. Those probationary members who complete the probationary period shall be considered as regular members of the Department.

SECTION 6 - JOB ANALYSIS AND PERFORMANCE EVALUATION
CRITERIA.

The Commission shall prepare a detailed job analysis of all positions subject to this Ordinance. The Commission shall also adopt a procedure for the continuing evaluation of the performance of members of the Department holding such positions. The Commission shall establish guidelines for testing procedures that will provide for most qualified people to be placed in a pool for promotion.

SECTION 7 - PERFORMANCE RATING.

The Commission shall adopt rules for establishing a performance rating. The rules shall require that a performance rating be made at least once every six months for each member of the Department. Probationary members shall be rated monthly. The rating shall be made by the member's immediate superior. The rating shall be submitted to the Chief of the Department and shall be kept on file in his/her office under his/her supervision. A member who is dissatisfied with the performance rating given to him/her by the member's immediate superior may appeal to the Commission for a review of the rating. The appeal must be filed within ten days after acknowledgment of

the rating by the member's signature. The Commission shall either affirm or correct the rating.

SECTION 8 - SPECIALIST POSITION.

Positions of a highly technical, scientific, or professional character, or positions which are new or experimental in nature, may be classified as Specialist Positions. Such positions may be created by the Board and the Common Council as other new positions are created in the Department under the law existing at the time of creation of the positions.

Such positions may be filled as the positions are created or as vacancies occur in such positions. Such positions may be filled by members of the Department, or by those not previously members. Appointments to such positions shall be by the Board without regard to the provisions of this Ordinance. Such positions may not be created with regard to jobs having substantially the same duties and responsibilities as existing jobs subject to the provisions of this Ordinance. After new and experimental positions are established as permanent positions, they shall be made subject to the provisions of this Ordinance unless they are of a highly technical, scientific, or professional character.

SECTION 9 - PERMANENCE OF PRESENT POSITIONS.

With the exception of the position of the Chief, Deputy Chief, and Assistant Chief, all present officer's ratings in the Fort Wayne Fire Department shall be considered as permanent ratings. At the time the commission starts to administer procedures for promotion, the Chief shall submit a list of all members presently employed by the Department, indicating the ranks they hold. Said members shall retain such ranks until removed or demoted for cause, including member holding Fire Department rank that are temporarily transferred out of the Department and

serving in other departments of public safety, provided that the time elapsed since such transfers does not exceed five (5) years.

SECTION 10 - FILLING VACANCIES PRIOR TO IMPLEMENTATION.

Prior to the implementation of a system of promotions under this Ordinance, vacancies in officer positions shall be filled under the procedure presently in effect.

SECTION 11 - DEMOTIONS OF OFFICERS FROM CERTAIN RANKS.

A. A Demotion from ranks above District Chief.

If an active member of the Department above the rank of District Chief is demoted from his/her position, the member may not be placed in a lower rank than District Chief.

If, at the time of demotion, all positions of the rank of District Chief are filled, the demoted member shall draw salary at that rank, shall serve in the highest rank in which there is a vacancy below the rank of District Chief and shall be returned to that rank, or any intermediate rank when the first vacancy occurs.

If two or more members are demoted from ranks above District Chief at the same time, they shall be placed in vacancies in the ranks of District Chief and below in the order of their seniority. As vacancies occur in the rank of District Chief, they shall be filled first from among those members, if any, who have been demoted from ranks above District Chief and who are serving in ranks below said rank. Such vacancies shall be filled in the order of the demoted member's seniority.

Further, that in the event there are insufficient vacancies in the rank of District Chief to accomodate all such members demoted within six months of each other and holding the same rank, such members shall be placed according to their

seniority in rank from which they were demoted.

If two or more such demoted members have the same seniority in rank, then the member having the longest seniority on the Department shall receive first consideration, and further, that in the event such members have equal seniority in rank, the member being demoted from the higher rank shall receive first consideration for filling such vacancies.

B. Demotion of the Chief.

If the Fire Chief is removed from his/her position, he/she shall be placed in the position of District Chief, if a vacancy exists. If there is no such vacancy, he/she shall be appointed to the highest ranking position below the rank of District Chief in which there is a vacancy, shall be paid the salary of a District Chief, and shall be appointed to the first vacancy in the rank of District Chief or any intermediate rank even though there may be other members who have been demoted from ranks above District Chief and who have greater seniority. Such demoted Chief shall receive first consideration in filling any such vacancies over any other demoted member irregardless of any other section of this Ordinance.

SECTION 12 - PROMOTIONS.

A. Factors Considered.

Rules governing promotions shall provide that specific factors be considered in evaluating a member of the Department for a promotion. The Commission shall determine the weight to be given to each factor. However, neither a member's length of service nor the score received on a subjective oral interview may be weighed in excess of ten percent each.

Factors to be considered shall include the following and such other factors as the Commission may determine:

1. The performance record and personal evaluation of the member by superior officers.
2. The scores received on a written examination.
3. The score received by the member on an oral interview.
4. The score received from an assessment center evaluation, specifically related to the job being tested for.
5. The member's length of service. Percentages that can be gained by seniority are as follows:

No percentage shall accrue through the member's first five years of service;

One percent shall accrue to the member each year from the completion of the sixth year through the fifteenth year for a maximum of total seniority percentage benefit of ten percent.

Promotions to a rank must be from the next lower merit rank in which the member has served for a period of at least one year.

B. Eligibility List.

Only members who are qualified in rank and length of service may be given the competitive examination and placed on an eligibility list for promotion. The eligibility list for a position shall consist of members who have successfully met the qualifications as set forth by the Commission. The eligibility list shall be maintained until all members on the list have been promoted or for two years, whichever comes first. When the list is no longer maintained, it shall be destroyed and a new list established by the same process as the old one.

C. Written Examination.

A minimum of 180 days before a written examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The Commission may employ instructors, purchase materials, and

make other expenditures to provide information for applicants for promotion examinations.

The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The Commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

The examination papers shall be kept under the Commission's supervision. A member who is dissatisfied with the score received on the written examination may appeal to the Commission for review of the score. The appeal must be filed within ten days after notice of the score has been sent to him/her. He/She may review the questions scored as incorrectly answered and challenge said scoring. The Commission shall review said scoring and, based upon said review, either affirm the score or correct the score.

SECTION 13 - PROBATIONARY PROMOTIONS.

When a vacancy in a rank occurs, the Commission, upon written notification of the Board, shall certify to the Chief and the Board, those members who are on the eligibility list for that particular rank. The Board, upon the recommendation of the Chief and the Commission, shall promote one such member to fill the vacant position.

All promotions are probationary for a period of one year. At the end of said period, the Chief and the Board shall review the member's performance and advise the Commission either that:

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3 1. The promotion be made permanent; or that

4 2. The promotion be revoked.

5 The Board shall act as advised by the Chief and the
6 Commission either giving the member permanent rank in the posi-
7 tion to which the promotion was made or returning the member
8 to the position which the member occupied immediately prior to
9 the probationary promotion.

10 The Commission shall prepare special performance ratings
11 for those serving under probationary promotions. Such ratings
12 shall be made at timely intervals to be determined by the Com-
13 mission and by such active members of the Department as shall
14 be determined by the Commission. The Chief shall review such
15 reports and shall discuss any detrimental reports with the
16 member.

17 If a member's probationary promotion is revoked, the mem-
18 ber shall no longer be considered eligible to remain on the
19 eligibility list from which the member received a probationary
20 promotion. Any such member may attempt to requalify during the
21 next regularly scheduled examination and shall be returned to
22 his/her previously held merit rank.

23 SECTION 14 - LAY-OFF PROCEDURE.

24 If it is necessary for the Board to reduce the number of
25 members of the Department for economic reasons, the reduction
26 shall be made by granting a temporary leave of absence, without
27 pay or financial obligation to the City, to the appropriate
28 number of members. The last member appointed shall be put on
29 leave first, with other members also put on leave in reverse
30 seniority, until the desired level is achieved.

31 If the Department is subsequently increased in number,
32 either by a change in the economic needs basis or by normal,

retirement procedures, the members of the Department who have been granted leaves of absence under this Section shall be reinstated before an applicant on the eligibility list is appointed to the Department. The reinstatements begin with the last member granted a leave.

SECTION 15 - MISCELLANEOUS.

The Commission shall be responsible for printing all rules of the Commission and for furnishing a copy to each member of the Department. Amendments to the rules take effect thirty days after their adoption if copies have been furnished to all members of the Department within that period. Otherwise, they do not take effect until copies are furnished to all members of the Department.

A Commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person commits a Class "D" felony.

SECTION 16 - COOPERATION BETWEEN AGENCIES.

The Commission, along with the Board, the Chief and any other such person or City agencies having jurisdiction regarding the hiring of and the employing of members of the Department shall cooperate on all matters relative to the implementation and ongoing management of this system. This shall include, but not be limited to, matters concerning Equal Employment Opportunities, Affirmative Action and other stated policies or regulations concerning the fair and equitable employment of members of the Department.

SECTION 17 - APPEALS.

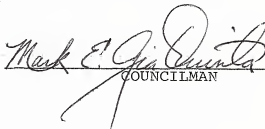
A member aggrieved by an action of the Commission may appeal to and in the same manner other appeals may be taken

from the disciplinary actions affecting members of the Fire Department of a City.

SECTION 18 - SEVERABILITY.

If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 2. That this Ordinance shall be effective upon passage and approval by the Mayor.


COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY JULY 24, 1981.


BRUCE O. BOXBERGER, CITY ATTORNEY

FIRE MERIT ORDINANCE

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1 BILL NO. G- 81-07-38 (as amended)

2 GENERAL ORDINANCE NO. G- _____

3
4 AN ORDINANCE providing for the creation of a
5 Fire Merit Commission; providing for the
6 creation of a Merit System governing the
7 selection and promotion of members of the
8 Fire Department; exempting certain positions
9 from the provisions of the Merit System;
10 providing for appointment to and dismissal
11 from such exempt positions; and providing
12 a system of discipline for members of the
13 Fire Department.

14 WHEREAS, the City deems it desirable to create a Fire
15 Merit Commission that would provide a Merit System governing
16 the selection and promotion of members of the Fire Department;

17 WHEREAS, the City feels it necessary to create such a
18 Fire Merit Commission to more effectively and equitably govern
19 members of the Fort Wayne Fire Department.

20 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
21 THE CITY OF FORT WAYNE, INDIANA:

22 SECTION 1. For the purposes of this Ordinance the
23 following shall mean:

24 SECTION 1 - DEFINITIONS.

25 The word "City" refers to the City of Fort Wayne,
26 Indiana;

27 The words "Common Council" refer to the Common Council
28 of the City;

29 The word "Clerk" refers to the City Clerk of the City;

30 The word "Board" refers to the Board of Public Safety
31 of the City;

32 The word "Department" refers to the Fire Department of
the City;

The words "Chief" and "Chief of the Department" refer
to the Chief of the Department;

The word "Commission" refers to the Fire Merit
Commission of the City;

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3 The word "Commissioner" refers to the members of the
4 Commission;

5 The words "merit rank" refer to the rank which a
6 member of the Department holds by appointment pursuant to the
7 merit system to be developed by the Commission;

8 The words "Staff Rank" refer to the ranks of Platoon
9 Captain, District Chief, Assistant Chief, Deputy Chief;

10 The words "seniority", "in the order of seniority"
11 and any similar terms mean, according to their content:

12 1. That in the event economic conditions require a
13 reduction of the number of members of the Department on active
14 duty, the member with the least seniority shall be the first
15 laid off, the member with the second least seniority shall be
16 the second laid off and so on until a sufficient number of
17 members have been laid off; or

18 2. That the recall of members from lay off, shall be
19 made by recalling first the member with the greatest seniority,
20 second the member with the second seniority, and so on until all
21 members have been recalled. New appointments to the Department
22 shall not be made until all members on lay off have been
23 recalled.

24 3. In the event two or more members of the Department
25 are of the same merit rank, seniority as between them shall be
26 based upon their respective length of service in said rank. In
27 the event two or more members of the Department hold merit
28 seniority from the same date, are of the same merit rank, and
29 have held the same rank for the same length of time, Department
30 seniority shall prevail.

31 4. The singular shall include the plural, the plural
32 shall include the singular, the disjunctive shall include the

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3 conjunctive and the conjunctive shall include the disjunctive.
4 The masculine shall include the feminine and the neuter and
5 the neuter shall include the feminine and the masculine.

6 SECTION 2 - CREATION AND DUTIES OF THE COMMISSION

7 There is hereby created a commission of the City
8 of Fort Wayne to be known as the Fort Wayne Fire Merit Commission.
9 The Commission shall have the following duties:

- 10 1. It shall promulgate and administer rules which
11 govern the selection of new members of the Department;
12 2. It shall promulgate and administer rules which
13 govern the selection of members of the Department for promotion
14 to all positions within the Department, except the positions of
15 Fire Chief, Deputy Chief, and Assistant Chief.

16 SECTION 3 - SELECTION AND TENURE OF THE COMMISSION

17 The Commission shall consist of five Commissioners
18 appointed as follows:

- 19 1. Two persons, who must be of different political
20 affiliation, and who shall be appointed by the Mayor;
21 2. One person appointed by the Common Council;
22 3. Two persons who must be of different political
23 affiliation, and who shall be elected by the active members of
24 the department.

25 4. Each Commissioner shall be a resident of the City
26 of Fort Wayne. A Commissioner shall be paid per diem compensa-
27 tion for each day of actual service on behalf of the Commission,
28 the amount to be fixed by the Common Council upon the recommen-
29 dation of the Board.

30 5. A Commissioner shall be at least 21 years of age.
31 He may not be an active member of the Department and not more
32 than one of the Commissioners may be a retired or former member

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3 of the Department. A person may not serve on the Commission if
4 he receives any other remuneration or salary from the City.
5 Each Commissioner shall take an oath of office to conscientious-
6 ly discharge the duties of a Commissioner. A signed copy of
7 the oath shall be filed with the City Clerk and with the Board.

8 6. The term of office for a Commissioner is four
9 years. However, one of the Mayor's initial selections and one
10 of the initial selections of the active members of the Depart-
11 ment shall serve terms of two years. The Mayor shall designate
12 which of his selections shall serve a term of two years and
13 the commissioner receiving the lower total vote shall serve a
14 term of two years. Subsequent terms shall be for a period of
15 four years.

16 7. ' A vacancy on the Commission shall be filled with-
17 in 30 days by the same authority which selected the Commissioner
18 who has ceased to be a member of the Commission. The individual
19 so selected shall serve only for the remainder of the unexpired
20 term of his predecessor.

21 8. Upon the expiration of a Commissioner's term,
22 he shall continue to serve until such time as a successor is
23 selected by the authority which selected the Commissioner whose
24 term has expired. Such selection shall be made within thirty
25 days of the expiration date of the term. The Commissioner whose
26 term has expired may be selected to succeed himself.

27 9. A Commissioner serves at the pleasure of the
28 appointing or electing authority and may be removed at anytime.
29 Provided, however, in the case of a Commissioner elected by
30 the Department, a recall petition signed by a minimum of two-
31 thirds of the active members of the Department may be submitted
32 to the Board. Upon receipt of such a petition, the Board shall

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3 immediately declare a vacancy on the Commission. Such vacancy
4 shall be filled within sixty days by election of the active
5 members of the Department. The person so elected shall serve
6 only for the remainder of the unexpired term of his predecessor.

7 A. Whenever the active members of the Department
8 elect a Commissioner, they shall do so at a meeting which shall
9 be called specifically for that purpose by the Board. The
10 Board shall give at least three weeks notice of the meeting to
11 all active members of the Department by posting the notice in
12 a prominent location in all duty stations of the Department.
13 The notice shall also be read once during each shift roll call,
14 at least three weeks prior to the meeting. The notice shall
15 designate the time, place, and purpose of the meeting.

16 B. Only active members of the Department may attend
17 the meeting. At the meeting, one of the members shall be
18 selected as chairperson. All voting shall be by secret written
19 ballot. Other procedures for holding the meeting may be
20 determined by the Board and shall be posted in accordance with
21 the rules to be adopted by the Board.

22 SECTION 4 - ADOPTION OF PROCEDURAL AND SUBSTANTIVE
23 RULES BY THE COMMISSION

24 A. Within thirty days after the selection of the
25 first five members of the Commission, the Commission shall adopt
26 rules to govern its proceedings. Among other things, the rules
27 shall establish the time and place of regular meetings and such
28 special meetings as the Commission may require.

29 B. A majority of the Commission constitutes a quorum,
30 and a quorum must be present for the Commission to transact
31 business.
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3 C. Each year, at a time to be established by rule of
4 the Commission, the Commissioners shall select from among their
5 number, a president, vice president, and a secretary. The
6 Commission shall keep a permanent record of its proceedings.

7 D. The Commission shall submit a proposed annual
8 budget to the Controller at the same time and in the same manner
9 as the proposed annual budgets of the departments of the City
10 are submitted. The Common Council shall include in the City's
11 budget an amount sufficient for the necessary expenses of the
12 Commission.

13 E. Within 180 days after the Commission is selected,
14 the Commission shall adopt rules governing the following:

15 1. The qualification of new members of the Fort
16 Wayne Fire Department; subject to applicable pension statutes;

17 2. The selection of members of the Department for
18 promotion to all positions within the Department, except the
19 position of Fire Chief and any position above the rank of
20 District Chief.

21 F. Before the rules required by this section are
22 adopted by the Commission, the Commission shall hold a public
23 hearing to consider the adoption of the proposed rules. At
24 least 10 days before the public hearing, the Commission shall
25 publish notice of the hearing in accordance with I.C. 5-3-1.
26 The notice shall state the time and place of the hearing and
27 state briefly the subject matter of the proposed rules. The
28 notice shall set forth the rules which the Commission shall
29 adopt for the conduct of the hearings.

30 G. At least 10 days before the hearing, one copy of
31 the proposed rules shall be placed on file in the Office of
32 the City Clerk for inspection by residents of the City. At

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3 least 10 days before the hearing, three copies of the proposed
4 rules shall be forwarded to the Fire Chief of the Department and
5 retained on file in the Office of the Chief for inspection by
6 members of the Department.

7 H. At the hearing, any interested person, and any
8 member of the Department shall be afforded the opportunity to
9 present both oral and written argument on the matter relating
10 to the adoption of the proposed rules, provided, however, that
11 the Commission may adopt rules to limit the amount of time
12 which may be used by any one person to present oral argument
13 and prevent the presentations of repetitious oral argument.
14 Written arguments shall not be read to the Commission at the
15 hearing, but shall be considered by the Commission to the extent
16 it deems appropriate prior to the adoption of the proposed
17 rules.

18 I. Except as such duties and responsibilities are
19 specifically vested by this Ordinance in the Commission, the
20 Common Council, the Board and the Department shall continue to
21 perform their respective duties and to exercise their respective
22 responsibilities for the governance of the Department as
23 established by law. This Ordinance shall not be interpreted as
24 affecting the authority of the Board and Department to promul-
25 gate work rules, disciplinary rules, and other rules and regu-
26 lations governing the administration and operations of the
27 Department.

28 SECTION 5 - FILLING VACANCIES PRIOR TO IMPLEMENTATION
29 OF A MERIT SYSTEM

30 A. Prior to the implementation of a system of
31 promotions and demotions under this Ordinance, vacancies in
32 officer positions shall be handled in accordance with the
procedures presently in effect.

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3 SECTION 6 - APPOINTMENTS TO THE FIRE DEPARTMENT

4 A. To be appointed to the Department, an applicant
5 shall meet the following minimum requirements:

- 6 1. A citizen of the United States;
7 2. A high school graduate or equivalent;
8 3. At least 21 years of age, but under 36 years of age;
9 4. Applicants shall then be rated on the selection
10 criteria and testing methods adopted by the Commission including
11 physical condition, mental alertness, character habits and
12 reputation.

13 B. The Commission shall reject the application of any
14 person who does not meet the above minimum requirements.

15 C. The Commission shall adopt procedures for pre-
16 admission testing to be administered to applicants for member-
17 ship in the Department. The pre-admission testing shall be
18 conducted according to the procedures to be adopted by the
19 Commission.

20 D. As part of the pre-admission testing, applicants
21 must successfully complete a medical examination and meet
22 minimum medical standards as adopted by the Commission as set
23 by the Board of Safety. The Commission shall adopt rules for
24 grading the applicants achieving a passing score upon an eligib-
25 ility list and shall certify the list to the Board and to the
26 Chief of the Department.

27 E. If an applicant for an original appointment reaches
28 his 36th birthday his name shall be removed from the eligibility
29 list. When the Commission announces the date for giving a new
30 test, any person remaining on the existing eligibility list
31 shall become ineligible, but such persons may apply to take
32 the new test.

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3 F. From time to time, as vacancies occur in the
4 Department, the Commission, upon written request of the Chief
5 shall submit a list of [all eligible applicants] from which the
6 Board shall choose for any appointment to the Training Academy
7 class. Upon the successful completion of the course at the
8 Fire Training Academy, an applicant may be appointed as a
9 member of the Department. The Chief shall certify to the
10 Commission the names of those who successfully completed such
11 course and the Board shall fill existing vacancies from among
12 those whose names are so submitted.

13 G. All appointments are probationary for a period
14 of one year. At anytime during the year, the Chief may advise
15 the Commission and the Board that the conduct or capacity of a
16 probationary member is not satisfactory for appointment as a
17 permanent member. The Board shall notify said member in writing
18 that the member will not receive a permanent appointment, and
19 the probationary member shall be discharged from the Department
20 forthwith. Those probationary members who complete the
21 probationary period shall be considered as regular members of
22 the Department.

23 H. The probationary year may be extended by the
24 Board upon request of the Chief and/or the individual concerned
25 for any reason deemed appropriate by the Board.

26 SECTION 7 - JOB ANALYSIS AND PERFORMANCE EVALUATION

27 CRITERIA

28 A. The Commission shall prepare a detailed job
29 description based on an analysis of all positions subject to
30 this Ordinance. The Commission shall establish guidelines for
31 testing procedures that will provide for the most qualified
32 people to be placed in a pool for promotion.

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3 SECTION 8 - INITIAL TESTING

4 A. No later than (18) months after the adoption of
5 this Ordinance, the Commission shall have held competitive
6 examinations for all ranks up to ~~the~~ including the rank of
7 District Chief. These examinations shall be open to all sworn
8 members of the Department meeting the eligibility criteria
9 as established by the Commission.

10 SECTION 9 - PERFORMANCE RATING

11 A. The Commission shall adopt rules for establishing
12 a performance rating. The rules shall require that a performance
13 rating be made at least once every 12 Months for each member of
14 the Department. The rating shall be made by the member's
15 immediate supervisor and shall be signed by the member. The
16 rating shall be submitted to the Chief of the Department and
17 shall be kept on file in his office under his supervision.
18 The Chief shall provide a copy of said ratings to each member
19 and the Commission. A member who is dissatisfied with the
20 performance rating given to him may appeal to the Commission
21 for a review of the rating. The appeal must be filed within
22 ten days after acknowledgement of the rating by the member's
23 signature. The Commission shall either affirm or correct the
24 rating.

25 B. All performance ratings exceeding 3 years of
26 age shall be purged from the files.

27 SECTION 10 - ELIGIBILITY

28 A. Only members who are qualified in rank and length
29 of service may be given the competitive examination and placed
30 on an eligibility list for promotion. The eligibility list for
31 a position shall consist of members who have successfully met
32 the qualifications as set forth by the Commission. The

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3 eligibility list shall be maintained for two years. When the
4 list is no longer maintained, it shall be retired and a new
5 list established by the same process as the old one. The
6 retired list shall be kept for five (5) years and then destroyed.

7 B. Written Examination.

8 A minimum of 180 days before a written examination
9 may be held to fill a current or expected vacancy in the ranks,
10 the members eligible to take the examination shall be notified
11 as to the written materials from which the questions will be
12 taken. The Commission may employ instructors, must provide
13 study materials in sufficient quantities, and shall make such
14 expenditures as are needed to provide pertinent information
15 for all applicants for promotion.

16 2. The identity of a member taking the written
17 examination shall be withheld from the person or persons
18 grading the examination, and all written examinations are
19 confidential. The Commission shall notify each member in
20 writing of the score that he received on the examination. The
21 score received by a member becomes a part of the permanent file
22 of the member, and the member is entitled to access to this file
23 for examination at any time.

24 3. The examination papers shall be kept under the
25 Commission's supervision. A member who is dissatisfied with
26 the score he received may appeal to the Commission for review.
27 The appeal must be filed within ten days from receipt of the
28 score. The member may review the questions marked as incorrect
29 and challenge said marks. The Commission shall review said
30 scoring and, based upon said review, either affirm or correct
31 the score. The examination papers shall be retired after the
32 two year period during which the eligibility list is valid.
The retired papers shall be kept for five years then destroyed.

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3 SECTION 11 - PROMOTIONS

4 A. Rules governing promotions shall provide that
5 specific factors be considered in evaluating a member of the
6 Department for a promotion.

7 B. Factors Considered

8 Factors to be considered shall include the following
9 and such other factors as the Commission may determine:

10 1. The performance record and personal evaluation
11 of the member by his supervisor;

12 2. The scores received on a written competitive
13 examination;

14 3. The score received by the member on an oral
15 competitive interview;

16 4. The score received from an assessment center
17 type evaluation, specifically related to the job being tested
18 for.

19 5. The member's length of service -- Percentages
20 gained through seniority are as follows:

21 No percentage shall accrue through the member's first
22 three years of service, one percent (1%) shall accrue each year
23 from the completion of the third year through the twelfth year
24 for a maximum total seniority percentage benefits of ten percent
25 (10%). The Commission shall determine the weight to be given
26 each factor, however, neither a member's length of service nor
27 the score received on a subjective oral interview may be weighed
28 in excess of ten percent (10%) each.

29 Promotions to a rank must be from the next lower
30 merit rank in which the member has served for a period of at
31 least two (2) years including the probationary period.
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3 SECTION 12 - PROBATIONARY PROMOTIONS

4 A. When a vacancy in a rank occurs, the Commission,
5 upon written notification of the Board, shall certify to the
6 Chief and the Board, those members who are on the eligibility
7 list for that particular rank. The Board, upon the recommenda-
8 tion of the Chief shall promote one such member to fill the
9 vacant position.

10 B. All promotions are probationary for a period of
11 one year. At the end of said period, the Chief and the Board
12 shall review the member's performance and advise the Commission
13 either that:

- 14 1. The promotion be made permanent; or that
15 2. The promotion be revoked.

16 C. The Board shall act as advised by the Chief and
17 the Commission either giving the member permanent rank in the
18 position to which the promotion was made or returning the member
19 to the position which the member occupied immediately prior to
20 the probationary promotion. If a member's probationary promo-
21 tion is revoked, the member shall no longer be considered
22 eligible to remain on the eligibility list from which the member
23 received the probationary promotion.

24 D. The Commission shall prepare special performance
25 ratings for those serving under probationary promotions. Such
26 ratings shall be made at timely intervals to be determined by
27 the Commission and shall be handled as other performance ratings
28 are as required by this Ordinance.

29 E. The member is entitled to appear before the
30 Commission and be heard on any matter detrimental to him in his
31 supervisor's report. He is also entitled to be represented
32 by legal counsel or another representative of his choice.

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3 If the promotion is finally revoked, the member may not be
4 returned to a rank lower than that he held before the proba-
5 tionary promotion began. Actions by the Commission, other than
6 making the promotion permanent, may be appealed within thirty
7 days to the circuit or superior court of the county, with the
8 unit being named as the sole defendant.

9 SECTION 13 - SPECIALIST POSITION

10 A. Positions of a highly technical, scientific, or
11 professional character, or positions which are new or experi-
12 mental in nature, may be classified as Specialist Positions.
13 Such positions may be created by the Common Council as other
14 new positions are created in the Department under the law
15 existing at the time of creation of the positions.

16 B. Such positions may be filled as the positions are
17 created or as vacancies occur in such positions. Such positions
18 shall be filled first by members of the Department, or by those
19 not previously members if no member of the Department is
20 qualified. Appointments to such positions shall be by the Chief
21 without regard to the provisions of this Ordinance. Such
22 positions may not be created with regard to jobs having sub-
23 stantially the same duties and responsibilities as existing jobs
24 subject to the provisions of this Ordinance. In the event new
25 and experimental positions held by sworn members of the
26 Department are established as permanent positions, they shall
27 be made subject to the provisions of this Ordinance.

28 SECTION 14 - PERMANENCE OF PRESENT POSITIONS

29 A. With the exception of the position of the Chief,
30 Deputy Chief, and Assistant Chief, all present officer's ratings
31 in the Fort Wayne Fire Department shall be considered as
32 permanent ratings for a period of 5 years after the effective
date of this Ordinance.

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3 At the time the Commission starts to administer procedures for
4 promotion, the Chief shall submit a list of all members present-
5 ly employed by the Department, indicating the ranks they hold.
6 Said members shall retain such ranks until removed or demoted
7 for cause, including members holding Fire Department rank that
8 are temporarily transferred out of the Department and serving
9 in other departments of public safety, provided that the time
10 elapsed since such transfers does not exceed five (5) years.

11 B. In order for such present officer to retain his
12 rank beyond the 5 year period he shall, within that period,
13 have met such examination criteria as determined by the
14 Commission for demonstrating his qualification for the rank
15 held. This may include, but not be limited to qualifying
16 for only the rank held or all ranks up to and including the
17 rank being held.

18 C. After the sixty (60) months have elapsed, any
19 officer that has not been permanently appointed to his rank
20 by the Commission as a result of successfully passing a
21 competitive examination, shall immediately be demoted to the
22 next lower merit rank held or in the event no lower merit
23 rank is held, shall be demoted to the rank of Private First
24 Class, forfeiting all monies, rights and privileges afforded
25 officers of his former rank. He shall also be held non-
26 eligible for promotion to any rank until one year from the
27 date of demotion.

28 D. In examining such officers, the Commission
29 shall determine whether or not the member meets the established
30 criteria and is considered qualified for the rank being held
31 and shall notify the Chief and the Board of their findings.
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3 SECTION 15 - APPOINTMENTS BY THE MAYOR
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5 A. The Fire Chief, Deputy Chief and Assistant Chiefs
6 shall continue to hold office at the discretion of the Mayor
7 and their qualifications shall not be subject to the examina-
8 tion procedures of the Commission. When appointing the Fire
9 Chief, Deputy Chief and Assistant Chiefs, after implementation
10 of this Act, the Mayor must make said appointments from members
11 of the Fire Department holding the rank of Captain or above.

12 B. Removal by the Mayor of a member from the
13 position of Fire Chief, Deputy Chief or Assistant Chief is
14 removal from rank only and not from the Department. When the
15 Fire Chief, Deputy Chief or Assistant Chief is removed, he
16 shall be appointed by the Commission to the last permanent
17 rank he has attained through merit appointment in the division
18 from which he was promoted. If there is no vacancy in said
19 rank, the member shall be entitled to the pay of that rank
20 and shall be placed in the highest rank in which there is a
21 vacancy and shall be returned to that rank as soon as an opening
22 is available, or to the highest intermediate rank at the
23 first vacancy.

24 C. In the event such demotion occurs during the
25 5 year period immediately following the effective date of this
26 Ordinance, such demotion shall be no lower than the rank
27 of District Chief regardless of what merit rank the member
28 has attained. After the 5 year period, said demotion shall
29 be to the highest merit rank achieved by the member.
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3 D. If two or more members are demoted from ranks
4 above District Chief at the same time, they shall be placed
5 in vacancies in the ranks of District Chief and below in the
6 order of their seniority. As vacancies occur in the rank of
7 District Chief, they shall be filled first from among those
8 members, if any, who have been demoted from ranks above
9 District Chief and who are serving in ranks below said rank.
10 Such vacancies shall be filled in the order of the demoted
11 member's seniority.

12 Further, that in the event there are insufficient
13 vacancies in the rank of District Chief to accomodate all
14 such members demoted and holding the same rank, such members
15 shall be placed according to their seniority in rank from
16 which they were demoted.

17 If two or more such demoted members have the same
18 seniority in rank, then the member having the longest seniority
19 on the Department shall receive first consideration, and
20 further, that in the event such members have equal seniority
21 in rank, the member being demoted from the higher rank shall
22 receive first consideration for filling such vacancies.

23 E. Demotion of the Chief

24 If the Fire Chief is removed from his position,
25 he shall be placed in the position of District Chief or the
26 highest merit rank held, in accordance with this section.
27 Further, that such demoted Chief shall receive first consid-
28 eration in filling any vacancies over any other such demoted
29 member regardless of any other provision of this section.

30 SECTION 16 - ENGINEER'S GRADE

31 1. The Department may, within three (3) years from
32 the date of promulgation, establish the grade Engineer. This
grade shall be filled through competitive examinations.

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3 2. Engineer shall be that fire fighter who is
4 regularly assigned the responsibility to drive and operate
5 those pieces of Department apparatus commonly referred to as
6 pumps, pumpers, engine, ladders, aerials, snorkels or
7 elevating platforms.

8 3. Engineer grades are not to be considered as
9 prerequisite for promotion to the rank of Lieutenant.

10 SECTION 17 - COOPERATION BETWEEN AGENCIES

11 The Commission, along with the Board, the Chief and
12 any other such persons or City agencies having jurisdiction
13 regarding the hiring of and the employing of members of the
14 Department shall cooperate on all matters relative to the
15 implementation and ongoing management of this system. This
16 shall include, but not be limited to, matters concerning
17 Equal Employment Opportunities, Affirmative Action and other
18 stated policies or regulations concerning the fair and
19 equitable employment of members of the Department.

20 All promotional practices, job classifications and
21 assignments, working conditions, transfers, application of
22 employment in the Department shall be maintained and conducted
23 in a manner which does not discriminate on the basis of race
24 or sex in violation of the Ft. Wayne Anti-discrimination
25 Ordinance G-21-78, the Indiana Civil Rights Act IC 22-9-1-1
26 et seq., and Title VII of the Civil Rights Act of 1964, 42
27 U.S.C. 2000e et seq., as amended.

28 SECTION 18 - MISCELLANEOUS

29 A. The Commission shall be responsible for printing
30 all rules of the Commission and for furnishing a copy to
31 each member of the Department. Amendments to the rules take
32 effect thirty days after their adoption if copies have been

1
2
3 furnished to all members of the Department within that period.
4 Otherwise, they do not take effect until copies are furnished
5 to all members.

6 B. A Commissioner who knowingly furnishes any
7 information to an applicant for appointment to the Department
8 or for promotion that gives that person an advantage over
9 another person commits a Class "D" felony.

10 SECTION 19 - APPEALS

11 A member aggrieved by an action of the Commission may
12 appeal in the same manner other appeals may be taken, from the
13 disciplinary actions, affecting members of the Fire Department
14 of the City.

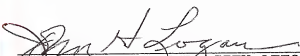
15 SECTION 20 - SEVERABILITY

16 If any section, clause, sentence, paragraph, part or
17 provision of this Ordinance shall be held invalid by any court,
18 it shall be conclusively presumed that this Ordinance would
19 have been passed by the Common Council without such invalid
20 section, clause, sentence, paragraph, part or provision.

21 This Ordinance shall be effective upon its passage.
22
23

24 _____
Councilman

25 APPROVED AS TO FORM AND LEGALITY
26

27 
28 BRUCE O. BOXBERGER, CITY ATTORNEY
29 Attorney for Common Council
30 City of Fort Wayne, Indiana
31
32

Memorandum

To Members of the Common Council Date August 10, 1981
From John H. Logan, Attorney for the Common Council of the City
of Fort Wayne
Subject Bill No. G-81-07-38 An Ordinance Providing for a Creation
of Fire Merit Commission

COPIES TO:

You have requested a legal opinion pertaining to above Ordinance. Under I.C. 18-1-1.5-2 (14), Common Council can "establish a system of employment with respect to any class of employees under which such employees would have security of employment and would be hired, promoted, demoted, transferred, discharged, compensated, and accorded other benefits and advantages on the basis of merit and qualification."

I have reviewed the above bill and have the following recommendations:

1. Pursuant to request of Councilman Don Schmidt, I have amended pages 6 and 7, to read in accordance with the proposed pages 6, 7 and 8 which are submitted with the amended bill. These amendments would give the Common Council the authority to review the procedural and substantive rules of the Commission before they become the actual operating rules.

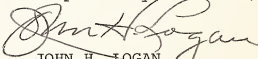
2. I have made a correction on page 13 to substitute the word "irrespective" for "irregardless".

3. I have submitted a new section on penalties because Common Council has no authority either under the present law or under the Home Rule Amendment to make any offense a felony and is confined to fines not to exceed One Thousand Dollars (\$1,000.00) without any imprisonment. The Common Council has by ordinance the right to require dismissal of a person from an office for misconduct and that, of course, is written in the ordinance.

4. On the last page of the bill, since it does impose a penalty, the law requires legal publication before the ordinance becomes effective. Accordingly, page 18 is amended by substituting legal publication thereof.

The ordinance does not unduly interfere with the authority of the Board of Public Safety. See Lines 17-20 on page 8 which provides, "this ordinance shall not be interpreted as affecting the authority of the Board and Department to promulgate work rules, disciplinary rules and other rules and regulations governing the administration and operations of the department."

Respectfully submitted,


JOHN H. LOGAN
Attorney for the Common
Council

JHL:thm

August 28, 1981

TO: The Common Council of the City of Fort Wayne IN

FROM: The Black Firefighters

SUBJECT: Amendments to the Proposed Merit Bill

The following information includes those proposed amendments to the Fire Merit Bill that are felt to be necessary in order to promote and ensure an equitable promotional system.

1. Sec.3 Page 4 ; This Commission should reflect the racial and ethnic composition of the City of Fort Wayne in order to ensure that the interests of all Firefighters is represented. Therefor, it is proposed that at least two (2) of the Commissioners be Black.
2. Sec.12 Page 14; This should be ammended to clarify that a member's lenght of service, oral interview score, and the superior officer's evaluation shall not recieve a weighting factor in excess of ten percent (10%) each. (Seniority will increase the effects of adverse impact and the evaluations and interviews will indicate some amount of subjectivity)
3. Sec.12 Page 15; Delete " No percentage shall accrue through the member's first five years of service". Change second paragraph to read " One percent shall accrue to the member each year after the completion of the second year through and inclusive of the eleventh (11th) year for a maximum of total seniority benifits of ten percent (10%).
4. Sec.13 Page 16; Delete " All promotions are probationary for a period of one year. Add " All permanent promotions are conditional upon successful completion of a one (1) year training period.
- ✓ 5. Sec.16 Page 18; This section should read " This shall include matters concerning Equal Employment Opportunities, Affirmative Action, and other stated and written policies and regulations concerning the fair and equitable employment of members of the Department. Delete; " but not be limited to".

Opinions on the need to pass a Fire Merit ordinance by Sept. 1, 1981:

Persons consulted: (via telephone, by VGS)

Mike Pitts- Indiana Assoc. of Cities and Towns

John Molitor- Director, Office of Code Revision, Indiana Legislative Services Agency

The only element of compulsion in SEA 380 comes if the City Council does not act to establish a merit system, and the firefighters petition the Council to do so.

If we establish a merit system by adopting the statutory system, then we must take it to a referendum. If we set up our own system, we do not have to do so.

The new law provides a mechanism for merit systems; we do not have to adopt the statute in full, or even in part. We can revise it, borrow from it, or completely write our own.

We do not have to pass a merit system by September 1-- we can write our own at any time, and we do not have to take anything to a referendum unless we do nothing, and are petitioned at some point by firefighters to write a merit system.

The new "home rule" law is intended to give the legislative bodies of cities more power to decide what is best for their communities. The law repeals, on January 1, 1984, all existing statutes which permitted merit legislation. It gives us the option of enacting the new state law, or of writing our own law, or of doing nothing. It does not force us into the posture of enacting something now, or ever.

8/11/81

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Proposed Amendments to Ordinance No. G-81-07-38

Page 2 add between lines 7 & 8;

The Words "Staff Rank" refer to the ranks of Platoon Captain, District Chief, Assistant Chief and Deputy Chief.

Lines 12 through 31; delete entire section.

Page 3 Lines 11 through 25; delete entire section.

Line 28, add new sentence; THE MASCULINE SHALL INCLUDE THE FEMININE AND THE NEUTER AND THE NEUTER SHALL INCLUDE THE FEMININE AND THE MASCULINE.

Page 4 Line 8; delete "and which are described hereinafter"

Line 19 after "Fort Wayne". add FOR THREE (3) CONSECUTIVE YEARS AND MUST BE A PERSON OF GOOD MORAL CHARACTER.

Page 6 Line 10; delete "at least three weeks prior to the notice of the meeting." (redundant)

Line 20; Paragraph should read: "Within thirty days after the selection of the first five members of the Commission, the Commission shall adopt rules to govern its proceedings. Among other things, the rules shall establish the time and place of regular MONTHLY meetings AND of such special meetings as the Commission may require."

A majority of the Commission constitutes a quorum, and a MAJORITY VOTE OF ALL THE COMMISSIONERS IS NECESSARY to transact business."

Page 7 Line 9; change 180 days to 90 days.

Line 11; should read "1. The selection of new members of the Fort Wayne Fire Department SUBJECT TO APPLICABLE PENSION STATUTES.

Line 15; after the word "Chief" strike the remainder of that line and insert THE MAYOR SHALL APPOINT AND MAY REMOVE A MEMBER FROM THE POSITION OF CHIEF.

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Page 2 of amendments

Page 7 Line 32; delete the words registered voter or taxpayer and substitute INTERESTED PERSON

Page 8 Line 11; strike all after the word "appropriate," insert PRIOR TO THE ADOPTION OF THE PROPOSED RULES.

Line 27 through 30; delete all in subsections 4, 5 and 6 insert new subsection 4. APPLICANTS SHALL THEN BE RATED ON THE SELECTION CRITERIA AND TESTING METHODS: ADOPTED BY THE COMMISSION INCLUDING PHYSICAL CONDITION, MENTAL ALERTNESS, CHARACTER HABITS AND REPUTATION.

Page 9 Line 8; strike all after "testing," through capability." should now read: "As part of the pre-admission testing, applicants must successfully complete a medical examination and meet, etc...."

Line 17; strike all after "birthday" to ^{the} period. Line should read "If an applicant for an original appointment reaches his 36th birthday, HIS NAME SHALL BE REMOVED FROM THE ELIGIBILITY LIST."

Page 10 Line 7; line should read "THE COMMISSION SHALL THEN NOTIFY the Board WHO shall notify said member in writing. . . .

Line 14; delete the line beginning with "The Commission" through "such positions."

Line 26; strike "superior", change to "SUPERVISOR.

Line 28; add after "supervision." THE CHIEF SHALL NOTIFY EACH MEMBER IN WRITING OF THE RATING THE MEMBER RECEIVED.

Line 31; strike "superior", change to SUPERVISOR.

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The word "Commissioner" refers to the members of the Commission;

The words "Merit rank" refer to the rank which a member of the Department holds by appointment pursuant to the merit system to be developed by the Commission;

The words "Staff Rank" refer to the ranks of Platoon Captain, District Chief, Assistant Chief, Deputy Chief

The word "seniority" refers to a period of continuous service beginning with the date a member was sworn into the and continuing as long as the individual remains an active member of the Department.

1. That in the event economic conditions require a reduction of the number of members of the Department on active duty, the member with the least seniority shall be the first laid off, the member with the second least seniority shall be the second laid off and so on until a sufficient number of members have been laid off; or

2. That the recall of members from lay off, shall be made by recalling first the member with the greatest seniority, second the member with the second seniority, and so on until all members have been recalled.

3. The singular shall include the plural, the plural shall include the singular, the disjunctive shall include the conjunctive and the conjunctive shall include the disjunctive. The masculine shall include the feminine and the neuter and the neuter shall include the feminine and the masculine.

SECTION 2 - Creation and Duties of the Commission

There is hereby created a commission of the City of Fort Wayne to be known as the Fort Wayne Fire Merit Commission. The Commission shall have the following duties:

1. It shall promulgate and administer rules which govern the selection of new members of the Department;

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~~SECTION 2~~ C 577

2. It shall promulgate and administer rules which govern the selection of members of the Department for promotion to all positions within the Department, except the position of Fire Chief.

SECTION 3 - Selection And Tenure Of The Commission

The Commission shall consist of five Commissioners appointed as follows:

1. Two persons, who must be of different political parties, and who shall be appointed by the Mayor;
2. One person appointed by the Common Council;
3. Two persons who must be of different political parties, and who shall be elected by the active members of the Department.

Each Commissioner shall be a resident of the City of Fort Wayne, for three (3) consecutive years and must be a person of good moral character. A Commissioner shall be paid per diem compensation for each day of actual service on behalf of the Commission, the amount to be fixed by the Common Council upon the recommendation of the Board.

A Commissioner shall be at least 21 years of age. A Commissioner may not be an active member of the Department and not more than one of the Commissioners may be a retired or former member of the Department. A person may not serve on the Commission if he receives any other remuneration or salary from the City. Each Commissioner shall take an oath of office to conscientiously discharge ~~the~~ duties of a Commissioner. A signed copy of the oath shall be filed with the City Clerk and with the Board.

The term of office for a Commissioner is four years.

However, one of the Mayor's initial selections and one of the initial selections of the active members of the Department shall serve terms of two years. The Mayor shall designate which of his selections shall serve a term of two years and the commissioner receiving the lower total vote of the two selected by the members of the Department shall serve a term of two years. Subsequent terms shall be for a period of four years.

A vacancy on the Commission shall be filled within 30 days by the same authority which selected the Commissioner who has ceased to be a member of the Commission. The individual so selected shall serve only for the remainder of the unexpired term of his/her predecessor.

Upon the expiration of a Commissioner's term, he/she shall continue to serve until such time as a successor is selected by the authority which selected the Commissioner whose term has expired. Such selection shall be made within thirty days of the expiration of the term. The Commissioner whose term has expired may be selected to succeed him/her self.

*g22
A Commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. Provided, however, in the case of a Commissioner elected by the Department, a recall petition signed by a minimum of two-thirds of the active members of the Department may be submitted to the Board. Upon receipt of such a petition, the Board shall immediately declare a vacancy on the Commission. Such vacancy shall be filled within sixty days by election of the active members of the Department. The person so elected shall serve only for the remainder of the unexpired term of his/her predecessor.

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Whenever the active members of the Department elect a Commissioner, they shall do so at a meeting which shall be called specifically for that purpose by the Board. The Board shall give at least three weeks notice of the meeting to all active members of the Department by posting the notice in a prominent location in all duty stations of the Department. The notice shall also be read once during each shift roll call. The notice shall designate the time, place, and purpose of the meeting.

Only active members of the Department may attend the meeting. At the meeting, one of the members shall be selected as chairperson. All voting shall be by secret written ballot. Other procedures for holding the meeting may be determined by the Board and shall be posted in accordance with the rules to be adopted by the Board.

SECTION 4 - Adoption Of Procedural and Substantative Rules By The Commission

Within thirty days after the selection of the first five members of the Commission, the Commission shall adopt rules to govern its proceedings. Among other things, the rules shall establish the time and place of regular MONTHLY meetings AND the calling of such special meetings as the Commission may require.

A majority of the Commission constitutes a quorum, and a MAJORITY VOTE OF ALL THE COMMISSIONERS IS NECESSARY to transact business. Each year, at a time to be established by rule of the Commission, the Commissioners shall select from among their number, a president, vice president, and a secretary. The Commission shall keep a permanent record of its proceedings.

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The Commission shall submit a proposed annual budget to the Controller at the same time and in the same manner as the proposed annual budgets of the departments of the City are submitted. The Common Council shall include in the City's budget an amount sufficient for the necessary expenses of the Commission.

Within NINETY (90) days after the Commission is selected, the Commission shall adopt rules governing the following:

1. The selection of new members of the Fort Wayne Fire Department, SUBJECT TO APPLICABLE PENSION STATUTES.
2. The selection of members of the Department for promotion to all positions within the Department, except the position of Fire Chief. THE MAYOR SHALL APPOINT AND MAY REMOVE A MEMBER FROM THE POSITION OF FIRE CHIEF.

Before the rules required by this section are adopted by the Commission, the Commission shall hold a public hearing to consider the adoption of the proposed rules. At least 10 days before the public hearing, the Commission shall publish notice of the hearing in accordance with IC 5-3-1. The notice shall state the time and place of the hearing and state briefly the subject matter of the proposed rules. The notice shall set forth the rules which the Commission shall adopt for the conduct of the hearings.

At least 10 days before the hearing, one copy of the proposed rules shall be placed on file in the Office of the City Clerk of the City for inspection by residents of the City. At least 10 days before the hearing, three copies of the proposed rules shall be forwarded to the Chief of the Department and retained on file in the Office of the Chief for inspection by members of the Department.

At the hearing, any INTERESTED PERSON of the

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City, and any member of the Department shall be afforded the opportunity to present both oral and written argument on the matter relating to the adoption of the proposed rules, provided, however, that the Commission may adopt rules to limit the amount of time which may be used by any one person to present oral argument and prevent the presentations of repetitious oral argument. Written arguments shall not be read to the Commission at the hearing, but shall be considered by the Commission to the extent it deems appropriate PRIOR TO THE ADOPTION OF THE PROPOSED RULES.

Except as such duties and responsibilities are specifically vested by this Ordinance in the Commission, the Common Council, the Board and the Department shall continue to perform their respective duties and to exercise their respective responsibilities for the governance of the Department as established by law. This Ordinance shall not be interpreted as affecting the authority of the Board and Department to promulgate work rules, disciplinary rules, and other rules and regulations governing the administration and operations of the Department.

SECTION 5 - Appointments To The Fire Department

To be appointed to the Department, an applicant shall meet the following minimum requirements. He shall be:

1. A citizen of the United States;
2. A high school graduate or equivalent;
3. At least 21 years of age, but under 36 years of age;
4. Applicants shall then be rated on the selection criteria and testing methods adopted by the Commission including physical condition, mental alertness, character habits and reputation.

The Commission shall reject the application of any applicant who does not meet the above minimum requirements.

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of ten (10) years service in the Department.

2. The removal of a member from the position of Fire Chief is removal from rank only and not from the Department. When the Fire Chief is removed, he shall be appointed by the Commission to the rank in the Department that he held at the time of his appointment or to any rank to which he had been promoted during his tenure in the Fire Chief's position. If such rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is available.

SECTION 12 - Promotions

Rules governing promotions shall provide that THE FOLLOWING factors be considered in evaluating a member of the Department for a promotion:

1. The scores received on a written COMPETITIVE examination.
2. The score received by the member on an oral COMPETITIVE interview.
3. The performance record and personal evaluation of the member.
4. The members length of service. Percentages gained through seniority are as follows: No percentage shall accrue through the members first five years of service, TWO percent shall accrue each year from the completion of the sixth year through the fifteenth year for a maximum total seniority percentage benefits of TWENTY percent (20%). The Commission shall determine the weight to be given to each factor, however, neither a member's length of service nor the score received on a subjective oral interview may be weighed in excess of TWENTY percent each.

Promotions to a rank must be from the next lower merit rank in which the member has served for a period of at least

TWO years.

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Eligibility List

Only members who are qualified in rank and length of service may be given the competitive examination and placed on an eligibility list for promotion. The eligibility list for a position shall consist of members who have successfully met the qualifications as set forth by the Commission. The eligibility list shall be maintained for two years FROM THE DATE OF CERTIFICATION, AFTER WHICH TIME THE LIST SHALL BE RETIRED AND A NEW LIST ESTABLISHED. THE RETIRED LIST SHALL BE KEPT FOR FIVE YEARS AND THEN DESTROYED.

Written Examination

A minimum of 180 days before a written examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The Commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion examinations.

The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The Commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

The examination papers shall be kept under the Commission's supervision. A member who is dissatisfied with the score received on the written examination may appeal to the Commission for review. The appeal must be filed within ten days FROM RECEIPT of the score. The member may review the questions MARKED as incorrect and challenge said MARKS.

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The Commission shall review said scoring and, based upon said review, either affirm or correct the score. THE EXIMINATION PAPERS SHALL BE RETIRED AFTER THE TWO YEAR PERIOD DURING WHICH THE ELIGIBILITY LIST IS VALID. THE RETIRED PAPERS SHALL BE KEPT FOR FIVE YEARS THEN DESTROYED.

Page 15 - SECTION 13 PROBATIONARY PROMOTIONS

Line 25 add after the word "Board" add THE THREE delete "those" after the work "members" add WITH THE HIGHEST SCORES delete "who are"

Page 16

Line 14 - after the word "Commission" delete the remainder. . Insert

THE PROBATIONARY MEMBER IS ENTITLED TO APPEAR BEFORE THE COMMISSION AND BE HEARD ON ANY MATTER DETRIMENTAL TO HIM IN HIS SUPERVISOR'S REPORT. HE IS ALSO ENTITLED TO BE REPRESENTED BY COUNCIL OR ANOTHER REPRESENTATIVE OF HIS CHOICE. IF THE PROMOTION IS FINALLY REVOKED THE MEMBER MAY NOT BE RETURNED TO A RANK LOWER THAN THAT HE HELD BEFORE THE PROBATIONARY PROMOTION.

ACTIONS BY THE COMMISSION OTHER THAN MAKING THE PROMOTION PERMANENT MAY BE APPEALED WITHIN THIRTY (30) DAYS TO THE CIRCUIT OR SUPERIOR COURT OF THE COUNTY, WITH THE UNIT BEING NAMED AS THE SOLE DEFENDANT.

(Insert Continuing Competency)

SECTION 14 - Lay Off Procedure

Line 32 delete the word "either", after the word "basis" delete "Or by normal,"

Page 17 Line 3 delete "retirement procedures"

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CONTINUING COMPETENCY.

1. For the purpose of determining the continuing competency of officers holding merit appointments under this ordinance, all such officers shall be retested every three (3) years. If any such officer fails to attain a grade of an acceptable level as determined and announced prior to the test by the Commission, there shall be a period of up to sixty (60) days following the grading of the tests in which he may retake the test in an effort to raise his grade. If at that time he again fails to attain an acceptable grade, he shall be demoted to the next lower rank and shall not be eligible for promotion until such a time as testing is conducted to determine eligibility for openings in the rank from which he was demoted.

2. Any officer holding an appointment under this Ordinance may be questioned by any private in regard to the competency of that officer by submitting written charges in duplicate to the Fire Chief and to the Chairperson of the Commission. The Fire Chief and the Chairperson of the Commission shall examine such charges and refer them to the three immediate supervisors of the individual being charged. The Fire Chief, the Chairperson of the Commission and the three immediate supervisors shall, within two weeks, hold a hearing with both the individual charged and the individual filing the charges being present. Each of the parties involved shall be entitled to subpoena witnesses. The persons hearing the case shall make a judgement and said judgement shall be referred to the Commission as a body for further action as it may deem appropriate.

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INITIAL APPOINTMENT (ALTERNATE)

1. No later than fifteen months after the adoption of this Ordinance, the Commission shall have held competitive examinations and interviews, open to all firefighters, for the purpose of determining the ratings of members of the Department, the Commission shall have completed the seniority credit for each firefighter and the Commission shall have given each firefighter twenty percent (20%) for past performance. As soon as practicable after the completion of such examinations and interviews, but in no event later than eighteen months after the adoption of this Ordinance, the Commission shall make individual appointments to each rank from Lieutenant through Deputy Chief, each inclusive. Such appointments shall become effective at dates to be determined by the Commission but all such appointments shall be effective no later than eighteen months after the adoption of this Ordinance.

2. In such cases as firefighters may be reappointed to the same ranks as they held prior to the initial appointments by the Commission described in the immediately preceding paragraph, the making of such appointments shall effect the removal of all firefighters holding ranks below that of Chief from the respective ranks they held immediately prior to such initial appointments, it being undesirable and unnecessary to have a duplication of rank.

3. Prior to the making of the initial appointments under this Ordinance, all officers of the Department, with the exception of the Fire Chief, shall retain their respective ranks; provided, however, that any such officer may be removed pursuant to IC 18-1-11-3 and provided, further, that in the event any court of competent jurisdiction makes a determination that any former officer was wrongfully demoted from his rank, such former officer shall be restored to his rank and an officer presently serving in such rank shall be removed.

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INITIAL APPOINTMENTS

(ALTERNATES)

1. No later than fifteen months after the adoption of this Ordinance, the Commission shall have held competitive examinations and interviews, open to all firefighters, for the purpose of determining the rating of Lieutenant. All officers presently holding rank shall be required to participate. As soon as practicable after the completion of such examinations, the Commission shall make individual appointments to the rank of Lieutenant, effective on the date of appointment in numbers equal to the number of total officers.

2. Within sixty (60) days from the date of the last appointment to the rank of Lieutenant notice shall be given and posted in all Department areas announcing the competitive examinations for the rank of Captain. This examinations and interviews shall be held within sixty (60) days from notification. Only those officers holding the merit rank of Lieutenant shall be eligible to participate. Those holding the rank of Lieutenant that successfully pass these examinations shall be appointed the merit rank of Captain. As soon as practicable after the completion of such examinations, the Commission shall make individual appointments to the rank of Captain, effective on the date of appointment in numbers equal to the number of Captains and ranks above.

3. Within sixty (60) days from the date of the last appointment to the rank of Captain notice shall be given and posted in all Department areas announcing the competitive examinations for the rank of Platoon Captain. These examinations and interviews shall be held within sixty (60) days from notification. Only those officers holding the merit rank of Captain shall be eligible to participate. Those officers holding the rank of Captain that successfully pass these examinations shall be appointed the merit rank of Platoon Captain effective on the date of appointment in numbers equal to the number of Platoon Captains and ranks above.

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INITIAL APPOINTMENTS page 2

4. Within sixty (60) days from the date of the last appointment to the rank of Platoon Captain notice shall be given and posted in all Department areas announcing the competitive examinations for the rank of District Chief. These examinations and interviews shall be held within sixty (60) days from notification. Only those officers holding the merit rank of Platoon Captain shall be eligible to participate. Those officers holding the rank of Platoon Captain that successfully pass these examinations shall be appointed the merit rank of District Chief, effective on the date of appointment in numbers equal to the number of District Chiefs and ranks above.

5. Within sixty (60) days from the date of the last appointment to the rank of District Chief, notice shall be given and posted in all Department areas announcing the competitive examinations for the rank of Assistant Chief. These examinations and interviews shall be held within sixty (60) days from notification. Only those officers holding the merit rank of District Chief shall be eligible to participate. Those officers holding the rank of District Chief that successfully pass these examinations shall be appointed the merit rank of Assistant Chief, effective on the date of appointment in numbers equal to the number of Assistant Chiefs and ranks above.

6. Within sixty (60) days from the date of the last appointment to the rank of Assistant Chief, notice shall be given and posted in all Department areas announcing the competitive examinations for the rank of Deputy Chief. These examinations and interviews shall be held within sixty (60) days from notification. Only those officers holding the merit rank of District Chief shall be eligible to participate. Those officers holding the rank of Assistant Chief that successfully pass these examinations shall be appointed the merit rank of Deputy Chief, effective on the date of appointment in numbers equal to the number of Deputy Chiefs.

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THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS • THE INDIANA STATE AFL-CIO • THE CENTRAL LABOR COUNCIL OF ALLEN COUNTY
PROFESSIONAL FIRE FIGHTERS UNION OF INDIANA

Fort Wayne Professional Fire Fighters Union

Organized September 21, 1918

LOCAL 124 I A F F

Fort Wayne, Indiana

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SECTION 8 - Specialist Position

Entire section is ambiguous. The Union does not know what the City has in mind with this section. In any event, we feel, if a position is discussed in this Ordinance, then this Ordinance should have provisions to govern. If not then delete the position from mention.

SECTION 9 - Permanence of Present Positions

Delete entire section. To freeze into permanence present political appointed persons is ludicrous. All persons should initially have the opportunity to apply themselves for any and all rank positions. The Unions' present contract allows for "cause" demotions by stating: "No bargaining unit member may be demoted except for just cause and after appropriate hearing and determination by the Board of Safety; provided, however, that demotions caused by implementation of a bona fide merit system shall be deemed to be for just cause."

SECTION 10 - Filling Vacancies Prior to Implementation

Delete entire section.

SECTION 11 - Demotions Of Officers From Certain Ranks

Delete entire section. If demoted officers are returned to the rank held at the time of promotion or to the rank attained during tenure as an appointed officer, this section would not apply.

SECTION 11 - APPOINTMENTS BY THE MAYOR (New proposal)

1. The Fire Chief shall continue to hold office at the discretion of the Mayor of the City of Fort Wayne, and his qualifications shall not be subject to the examination procedures of the Commission. When appointing the Fire Chief, after implementation of this Act, the Mayor must make said appointment from a member of the Fire Department in the merit positions comprising Staff Rank after having fulfilled all requirements necessary for such ranks, including a minimum

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ENGINEER GRADE.

The Commission shall, within three years from the date of the implementation of this Act, establish the rank of Second Engineer and First Engineer to be filled through competitive examinations.

1. Engineer, First Class shall be that firefighter who is regularly assigned to drive and operate those pieces of Fire Department apparatus commonly referred to as pumps, pumpers, or engines.

2. Engineer, Second Class shall be that firefighter regularly assigned to drive and operate those pieces of Fire Department apparatus commonly referred to as aerial ladders, snorkels or elevating platforms.

FIRE PREVENTION BUREAU

1. All firefighters shall be given the opportunity to participate in a competitive examination to determine a permanent grade level in the Fire Prevention Bureau, provided that they have not less than five years of service on the Fire Department regardless of the division to which they were previously assigned. There shall be no time in grade requirements for Fire Department personnel testing for the Fire Prevention Bureau.

2. All officers presently serving in the Fire Prevention Bureau, at the time this Ordinance becomes effective, shall be eligible to participate in any such testing to determine the permanent grade to which he shall be assigned.

3. After testing, as outlined in Section 12, a list shall be compiled by the Commission of the total composite scores. That firefighter awarded the highest composite score

shall appear at the top of said list and shall be deemed first eligible. The names of all other members testing for the Fire Prevention Bureau shall appear in order of their total composite scores. The member deemed first eligible shall be named ^{Assistant} ~~Deputy~~ Chief of the Fire Prevention Bureau. The remaining members deemed eligible for promotion shall be awarded the remaining ranks in order of their composite scores, and in sufficient numbers to fill all available openings as are allocated to that division at that time.

4. The Fire Chief may, at his discretion through applicable pension statutes, assign medically disabled members to the Fire Prevention Bureau on a temporary or permanent basis, provided that the medically disabled member shall not displace or otherwise cause to be removed any Officer who has attained rank through merit testing.

TRAINING DIVISION

1. All firefighters shall be given the opportunity to participate in testing for a permanent grade level in the Training Division, provided that they have not less than five years service on the Department, regardless of the division they were previously assigned. There shall be no time in grade requirement for the firefighters testing for the Training Division.² All officers presently serving in the Training Division, at the time this Ordinance becomes effective, shall be eligible to participate in any such testing to determine the permanent grade to which he shall be assigned.

3. After testing, as outlined in Section 12, a list shall be compiled by the Commission of the total composite scores. That firefighter awarded the highest composite score

shall appear at the top of said list and shall be deemed first eligible. The names of all other members testing for the Training Division shall appear in order of their total composite scores. The member deemed first eligible shall be named Assistant Chief of the Training Division. The remaining members deemed eligible for promotion shall be awarded the remaining ranks in order of their composite scores, and in sufficient numbers to fill all available openings as are allocated to that division at that time.

4. The Fire Chief may, at his discretion through applicable pension statutes, assign medically disabled members to the Training Division on a temporary or permanent basis, provided that the medically disabled member shall not displace or otherwise cause to be removed any Officer who has attained rank through merit testing.

FIRE SHOP

1. All firefighters shall be given the opportunity to participate in testing for a permanent grade level in the Fire Shop, provided that they have not less than five years service on the Department, regardless of the division they were previously assigned. There shall be no time in grade requirement for the firefighters testing for the Fire Shop.

2. All officers presently serving in the Fire Shop at the time this Ordinance becomes effective, shall be eligible to participate in any such testing to determine the permanent grade to which he shall be assigned.

3. After testing, as outlined in Section 12, a list shall be compiled by the Commission of the total composite scores. That firefighter awarded the highest composite score shall appear at the top of said list and shall be deemed first

eligible. The names of all other members testing for the Fire Shop shall appear in order of their total composite scores. The member deemed first eligible shall be named Assistant Chief of the Fire Shop and Master Mechanic. The remaining members deemed eligible for promotion shall be awarded the remaining ranks in order of their composite scores, and in sufficient numbers to fill all available openings as are allocated to that division at that time.

4. The Fire Chief may, at his discretion through applicable pension statutes, assign medically disabled members to the Fire Shop on a temporary or permanent basis, provided that the medically disabled member shall not displace or otherwise cause to be removed any Officer who has attained rank through merit testing.

prepare and adopt rules and regulations governing the hiring of persons to be employed as members of the Fire Department, the rating of persons employed as active members of the Fire Department and the promotion of members of the Fire Department up to and including the rank of District Chief, from the next lower rank.

Duplicate personnel files and records involving individual members of the Fire Department are to be maintained in locked files in the office of the Fire Chief and in the office of the Commission. These records are to be used only by the Fire Chief and the Commission or their authorized representatives. Any individual firefighter, or his authorized representative, may examine his own file, but none of such personnel files and records are public record.

All test material shall be the property of the Commission. Any unauthorized distribution of such material shall be punishable, upon conviction, by a fine of One Thousand Dollars (\$1,000.00) or such an amount as shall be the maximum permitted by state law.

SECTION 8.

HIRING.

The Commission shall cause all applicants for the Fort Wayne Fire Department to be tested, in a manner it determines. The Commission shall establish and maintain a list of eligible candidates based on the results of such tests, those scoring highest to be placed at the head of the list. As openings occur in the department, the Commission shall supply the Board of Public Safety with a list of eligible candidates on a ratio of applicants to openings of ^{two to one.} ~~no greater than one and six tenths or no less than one and five tenths [three to two ratio or the next highest multiple].~~ In the event of one opening, two applicants shall be provided.

SECTION 9.

JOB DESCRIPTION.